

Divorce

Decree

PETITION FOR DISSOLUTION OF MARRIAGE

DECREE

This Petition is for dissolution of marriage

WHEREFORE, Petitioner prays for its orders:

a. dissolving the marriage between the Petitioner and Respondent;

b. dividing the marital property and settling all marital and non-marital property issues as specified in the attached Property Settlement Agreement.

and it is alleged that the path as follows:

between the Petitioner and Respondent:

between Petitioner and Respondent according to the terms and conditions of the Property Settlement Agreement.

FACING DIVORCE IN INDIANA?

Your Guide to Successfully Navigating Family Law Matters

Bellinger Law Office.
202 West Berry Street
Suite 500
Fort Wayne, Indiana, 46802
(260) 428-2214
www.RobertBellingerLaw.com

Written by:
Robert H. Bellinger II, Esq

FACING DIVORCE IN INDIANA?

YOUR GUIDE TO SUCCESSFULLY NAVIGATING
FAMILY LAW MATTERS

By Robert H. Bellinger II, Esq.

© Copyright 2014 BELLINGER LAW OFFICE

All rights reserved. No part of this book may be used or reproduced in any manner whatsoever without written permission of the author.

ISBN: 978-1-941645-17-8

Designed and Published by

Speakeasy Publications.

73-03 Bell Blvd #10

Oakland Gardens, NY 11364

www.SpeakeasyMarketingInc.com

888-225-8594

DISCLAIMER

This publication is intended to be informational only. No legal advice is being given, and no attorney-client relationship is intended to be created by reading this material. If you are facing legal issues, whether criminal or civil, seek professional legal counsel to get your questions answered.

BELLINGER LAW OFFICE.

202 West Berry Street
Suite 500
Fort Wayne, Indiana, 46802

(260) 428-2214

www.RobertBellingerLaw.com

TABLE OF CONTENTS

Attorney Introduction 5

Common Reasons For a Divorce..... 6

Common Misconceptions Regarding The Divorce
Process 9

Self-Representation in a Divorce Proceeding.....12

Perceptions of a Divorce Attorney13

Common Mistakes Detrimental to a Favorable
Resolution in a Divorce Proceeding.....16

Preparatory Steps to File a Divorce.....18

Division of Assets and Liabilities in a Divorce20

Spousal Maintenance in the State of Indiana.....26

Unique Characteristics of Spousal Maintenance29

Child Custody And Parenting Time in a Divorce
Proceeding.....30

Calculation of Child Support in a Divorce.....33

Remedial Measures for Non-Payment of Child
Support35

What To Look For Regarding Family Law Attorneys37

The Unique Attributes of Bellinger Law Office.....39

ATTORNEY INTRODUCTION

Robert Henry Bellinger II grew up in eastern Whitley County, graduated from Columbia City High School and went on to graduate from IPFW and Thomas M. Cooley Law School.

He has “seen the inside of a courtroom” and has extensive trial experience.



Attorney Bellinger is also the chairman and co-founder of the American Unity Party. The AUP is an independent, and therefore non-partisan, party designed to cater to the interests of the shrinking middle-class.

Attorney Bellinger believes that religious training and participation in volunteer activities are important to the communities in which we live and has participated in volunteer programs that are too numerous to list.

The Bellinger Law office was founded upon principles that you wouldn't expect from other law firms. Attorney Bellinger believes in providing the

best customer service through “breadbasket advocacy.”

Attorney Bellinger defines customer service as being accessible, meeting with a real lawyer — not a paralegal, listening more than talking, being knowledgeable, showing empathy, and possessing a friendly and outgoing personality. By breadbasket advocacy Mr. Bellinger works to find a voice for the common middle class of citizens like you and I who make up the pulse of our communities.

In fact it is vitally important that the breadbasket have a voice and that it be heard. The legal system is not designed for the very wealthy or the very poor.

The Bellinger Law Office caters to the grassroots of the community by providing legal services that address and solve everyday concerns that are important to the individual. This is done by providing all of the relevant information that a client will need to make a well-informed decision.

COMMON REASONS FOR A DIVORCE

There are many reasons for a divorce. It could be that the couple has fallen out of love, compatibility issues, or economic problems have taken a toll on the marriage. Perhaps someone needs to leave an

abusive relationship – such as physical, alcohol or drug abuse issues.

Indiana is known as a “no-fault divorce” state, meaning that the reasons for a divorce are mostly irrelevant. It’s not something to ask, it’s usually something that a client will volunteer as far as a basis or a reason for a divorce.



FEAR OF AN IMPENDING DIVORCE

Some people fear that the other party will not agree to a divorce and will to work prevent the divorce from happening. For example, one party may simply refuse to cooperate by not showing up for court hearings. Not so fast! As long as you provide service of process, meaning you adequately provide notice to the other party of the pending divorce suit filed against them and they are aware that a court hearing is going to commence, even if the other person fails to cooperate or does not show up for a court hearing, you can still go forward and get the divorce finalized.

GENDER DIFFERENCES IN DIVORCE

Other than the question “what will happen with the kids?” one of the biggest concerns that men have is “what’s going to happen with my stuff.” I frequently hear “I don’t want to give her half of my stuff!” Unfortunately that’s not how things work in Indiana. We have to work to divide up all of the assets and liabilities in a just and reasonable manner.

My female clientele are often concerned with “how am I going to make it on my own?” Fear not ladies! The presumption is that you will receive an equal division of marital property. You may also qualify for an award of spousal maintenance (known in other states as alimony).

THE ISSUE OF CHILDREN IN A DIVORCE

If there are kids involved both men and women want to know what’s going to happen with them. I ALWAYS hear “which parent are they going to live with?” “What’s my parenting time going to look like?” “How much child support will I have to pay?” “How much child support will I receive?” Typically, the father pays support, and there are many reasons for this. The computation of child support involves many factors and is figured by completing a

Child Support Obligation Worksheet. I will discuss this later in this book.

The moms that I speak with are naturally more protective when it comes to the children and almost always request to have the children live with them. The children usually reside with the mother for various fact-sensitive reasons. Further, parenting time for both parents is often defined by the Indiana Parenting Time Guidelines. I will also discuss these guidelines later in this book.

COMMON MISCONCEPTIONS REGARDING THE DIVORCE PROCESS

A common misconception that exists is what I call “the unwritten presumption” where courts do seem to favor placing the children with the mother and making mom the primary physical custodian. However, this is not always the case. There are a lot of good dads out there who provide the day-to-day caretaking responsibilities for and spend quality time with their children. Just because they are not of the female sex doesn’t mean they can’t have primary physical custody of their kids.

EQUAL TOUCHES OR 50/50 PARENTING TIME

The primary misconception in a typical divorce with children is that mom gets the kids, dad gets parenting time every other weekend and dad's going to have to pay support. I don't know why, but this is how a lot of people think of it. There does exist another possibility: equal parenting time! If for whatever reason it is not possible for dad to be the primary physical custodian of the children it may be possible to work toward a parenting time schedule that will allow each parent what's called "equal touches" or "50/50" parenting time, so that each parent can enjoy as much time with the kids as they can.



Equal parenting time could also help the father with his child support obligation, because the more overnights that he enjoys with the kids the less child support he may have to pay. Alternatively, provided that the incomes of the parents are about equal, it is possible that neither parent will pay child support.

One thing I always explain to people going through a divorce is that they will experience obvious changes in their lifestyles. What does that mean? It means

that you're getting a divorce, so you're going to see your kids less because you will have to share them. You're going to have less stuff, and you're probably going to have less income because you no longer are going to have the two streams of income you were previously used to.



No one will get everything his or her way in this process. You will be starting a new chapter in your life and you must find the best way for you to move on and make the most of it.

DIVISION OF MARITAL ASSETS IS AN EQUAL SPLIT

Pursuant to Indiana Code 31-15-7-5, “The court shall presume that an equal division of property between the parties is just and reasonable.” Thus, the assets and liabilities of the marriage must be split as reasonably and equitably as possible. Of course there are exceptions to this rule and a “rebuttable presumption” may exist that an equal division may not be just and reasonable.

PEOPLE HAVE THE MISCONCEPTION THAT GETTING DIVORCED IS TOO EXPENSIVE

Another misconception about divorce is the cost of getting one. Some people believe it's too expensive to get divorced.

The best advice is to “belly up” and hire an experienced family law attorney so that your attorney can protect your best interests and the best interests of your children.

SELF-REPRESENTATION IN A DIVORCE

PROCEEDING

SELF REPRESENTATION OFTEN RESULTS IN A LOSING EFFORT

Abraham Lincoln said, “He who represents himself has a fool of a client!” People’s emotions are heavily charged when going through a divorce, and these emotions can blind them. If you represent yourself you will most likely get the short end of the stick, so it would



behoove you to hire an attorney. I know it’s not cheap, but in the long run it’s going to be a lot cheaper for you to have an attorney do this the right way. I have had more instances than I can count where someone has come to me after the fact and say, “I got divorced. This is what my decree says. I got railroaded here! What can we do to fix it?!”

This is the worse possible situation to be in because now you will be paying an attorney a lot more money to try and undue all the things that you didn't do correctly the first time because you were too cheap.

As previously stated, it is never a good idea for anybody to represent himself or herself in a divorce UNLESS it is this very rare situation. Let's say you were married for a year or less, you don't have kids and you don't have any stuff. You can probably just fill out the forms online and file them with the court. Other than this specific instance it would never be recommendable for anybody to walk into court or engage in a litigious process like a divorce without an experienced attorney.

PERCEPTIONS OF A DIVORCE ATTORNEY

STEREOTYPICAL IMAGE OF A DIVORCE ATTORNEY

Divorce attorneys often deal with negativity and a lot of it comes from our own clients. In a divorce emotions run high. There are people's livelihoods at stake, there are people's futures hanging in the balance, their kids' future is at stake. This is a tough spot for an attorney to be in because we are qualified and trained in the areas of Indiana family law, the rules of trial procedure, the rules of

evidence, and how to conduct ourselves in the courtroom. We are not marriage counselors or family therapists. It is vitally important that you listen to your attorney and let them help you. If you need help with emotional issues then you should meet with a counselor or therapist.



I understand that people come to me because they're at a low point in their lives and they have a hot mess on their hands that they need fixed. Please be advised that as attorneys we make our living by the time we devote to our clients. Therefore, keep in mind that every time you call or email your attorney he or she is most likely billing you for their time to listen, read and respond to you. Don't let this "stereotypical image" of a divorce attorney rub you the wrong way.

REALITY IS OFTEN VERY DIFFERENT FROM A CLIENT'S PERCEPTION

Another difficult task that divorce attorneys encounter is trying to ground the client in the reality of the situation. As a client (especially as a mother or father) you undoubtedly have an idea of how a divorce or a custody and parenting time arrangement may look like. Unfortunately, your idea

may be inconsistent with Indiana law or a judge's decision. Unfortunately, when emotions are running high, if people don't get what they expect, well, then it's their attorney's fault. Their attorney is a shmuck and didn't do a very good job.

This is an unfortunate aspect of divorce--there's no cookie cutter approach to solving all of your problems nor will you get everything you ask for. Every divorce case is different based upon the many unique facts and circumstances associated with it.

GET A DIVORCE FOR ONLY \$500

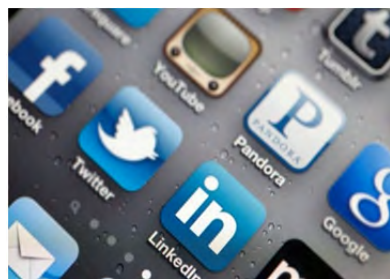
There are attorneys who do this. It's a terrible idea because just like anything in life you get what you pay for. If you go and pay \$10 for a haircut, well, you're going to get a \$10 haircut. This does clients a disservice. It is virtually impossible to initiate and finalize a divorce matter with all the hours that an attorney has to put in regarding drafting the pleadings, completing discovery, conducting various hearings, going to mediation, etc. It's too bad because I have had clients that have been stuck with those low-ball attorneys. Very little gets done, the client is left holding the bag, they've spent \$500, they got nowhere and they have to start again with a new attorney.

COMMON MISTAKES DETRIMENTAL TO A FAVORABLE RESOLUTION IN A DIVORCE PROCEEDING

The big thing that really screws people over in a divorce proceeding is social media. You really have to be careful on how you communicate on Facebook or via email or text messaging because all of those things can be traced. All of those statements can be obtained during the discovery process and could therefore be used against you in court.

USAGE OF SOCIAL MEDIA LIKE FACEBOOK CAN BE HARMFUL TO A DECLARANT'S ASPIRATIONS

I have seen Facebook both help and hurt a lot of people. You **MUST** be careful with what you post especially if there are kids involved. No judge wants to see a picture of mom holding a bottle of whisky in her hand with her arm wrapped around some guy at a party while trying to explain why she should have custody of the kids. Wrong answer!



It's just common sense. If you have Facebook take it down. Further, if you are communicating with the other parent keep it cordiale, professional and positive. Keep your conversations about the kids. Let your attorney handle the rest.

BAD BEHAVIOR DURING DIVORCE AND PRE-DIVORCE PROCESS

It is very important to do the prep work before anything is filed or at least immediately after the divorce petition is filed.

Document and/or record every conversation that you have with the other parent. Keep a calendar of the number of overnights you have with your kids. If you have joint bank accounts and/or credit cards close them. Gather your last three years' income tax returns. Photograph and inventory all of the property in the marital residence. Get all of this information to your attorney ASAP.

ABSCONDING TO ANOTHER STATE WITH CHILDREN DURING A DIVORCE IS ILLEGAL IN INDIANA

Believe it or not, in Indiana is it is actually illegal to kidnap your own children. You cannot flee the state with the kids once a divorce is filed. Don't do this because you'll be looking at felony criminal charges.

If you want to leave the state with the kids the law is very specific. You must file a notice of intent to relocate with the court and serve the other parent by certified mail. A lot of legal specifics exist in this process so contact an attorney to do it for you.

PREPARATORY STEPS TO FILE A DIVORCE

There are a lot of things people can do to help their attorney with preparing for the divorce. Getting copies of income tax returns, W2s, copies of paystubs, bank accounts, retirement statements, credit card statements, loan balances, etc., so that your attorney can figure out where all the money is and what is owed is important.

Also, you should literally go around the house, inventory all the stuff and photograph it. That way you have tangible evidence, so that if the other party tries to liquidate it, you have evidence to present to the judge in an effort to either reclaim the property or reclaim its value.

IT IS ADVISABLE TO OPEN A SEPARATE BANK ACCOUNT

If you share a joint bank account with your spouse close it. Open up an account in your own name. You don't want your ex-husband or ex-wife liquidating the bank accounts and spending it on God knows

what. Nor can you liquidate the accounts either. Simply withdraw your deposits and put that money in your own account.

Further, if you have joint credit cards shut them down. Get your name off of them. Open one in your own name. Lastly, get all of this information to your attorney at once.

THE IMPORTANCE OF DOCUMENTATION IN DIVORCE

You can't document enough. For example, conversations that you have with the other parent, keeping a calendar of the number of overnights each parent has and keeping a journal or diary regarding every conversation that was had between the both of you should be documented. If you think of anything that is relevant to your divorce write it down, photograph it, photocopy it, etc. This will help your attorney tremendously. It helps the attorney piece things together. It also saves the attorney time and you a lot of money if your attorney has to track down this information later.

DIVISION OF ASSETS AND LIABILITIES IN A DIVORCE

Provided the parties cannot agree about how they're going to divide their stuff Indiana has a rule.

Pursuant to Indiana

Code 31-15-7-5, "The court shall presume that an equal division of the marital property between the parties is just and reasonable. However,



this presumption may be rebutted by a party who represents relevant evidence, including evidence concerning the following factors, that an equal division would not be just and reasonable:

- (1) The contribution of each spouse to the acquisition of the property, regardless of whether the contribution was income producing.
- (2) The extent by which the property was acquired by each spouse:
 - (A) before the marriage; or
 - (B) through inheritance or gift.

(3) The economic circumstances of each spouse at the time the disposition of the property is to become effective, including the desirability of awarding the family residence or the right to dwell in the family residence for such periods as the court considers just to the spouse having custody of any children.

(4) The conduct of the parties during the marriage as related to the disposition or dissipation of their property.

(5) The earnings or earning ability of the parties as related to:

(A) a final division of property; and

(B) a final determination of the property rights of the parties.”

As family law attorneys we must do our best to divide the marital property pursuant to this rule. The best way to do this is to prepare a marital balance sheet or spreadsheet that itemizes each piece of property, its fair market value and in whose column it shall belong.

It is beneficial for the parties if they can let cooler heads prevail and work with their attorneys to prepare the marital balance sheet. Set your personal sentiments aside. Otherwise, if the parties cannot

agree, you will go to court and the judge will divide it up for you.

Pursuant to Indiana Code 31-15-7-4, “[T]he court shall divide the property of the parties, whether:

(1) Owned by either spouse before the marriage;

(2) Acquired by either spouse in his or her right:

(A) after the marriage; and

(B) before final separation of the parties; or

(3) Acquired by their joint efforts.

(b) The court shall divide the property in a just and reasonable manner by:

(1) Division of the property in kind;

(2) Setting the property or parts of the property over to one (1) of the spouses and requiring either spouse to pay an amount, either in gross or in installments, that is just and proper;

(3) Ordering the sale of the property under such conditions as the court prescribes and dividing the proceeds of the sale; or

(4) Ordering the distribution of benefits described in IC 31-9-2-98(b)(2) [pension or retirement benefits] or

IC 31-9-2-98(b)(3) [retirement pay defined in 10 U.S.C. 1408(a)] that are payable after the dissolution of marriage, by setting aside to either of the parties a percentage of those payments either by assignment or in kind at the time of receipt.”

Simply put, if you go in front of a judge, the judge most likely will not care about your sentimental attachment or value of the marital property. Rather, the judge will divide it up pursuant to the above rules.

THE ASSETS MUST BE DIVIDED IN A REASONABLE MANNER

The assets or property must be divided in a reasonable manner, and you probably want to know what that means. Practically speaking, it can mean specific items are given to each party. For example, one spouse may get one car and the other spouse may get the other car. One spouse may get the bedroom suite and the other spouse may get the living room suite, one spouse may get the big screen TV and the other spouse may get the computer, etc.

A “SETOFF” IS A POTENTIAL SOLUTION FOR INEQUITABLE DISTRIBUTION OF ASSETS

When determining the “setoff” the marital balance sheet is put together as described above. Thus, “Husband’s” and “Wife’s” columns are added up so

that a total monetary value of the property is determined. Then, looking at the bottom line, your attorney will determine if a sizable gap exists between the two values and whether the setoff can be used to balance out the division of the property. For example, if Husband's column adds up to \$150,000.00 and Wife's column adds up to \$50,000.00, then Wife may be entitled to a setoff in the amount of \$50,000.00 to reasonably and equitably divide the value of the marital property.

SELLING A PROPERTY WITH A MORTGAGE

What happens if both spouses are on a mortgage?

Typically, if both spouses used their respective incomes to secure the mortgage and to pay the monthly mortgage bill, we must figure out how



to reasonably divide this asset and liability. If neither spouse can afford the mortgage then the obvious solution would be to sell the house and divide the equity or liability.

OR YOU MAY CONTINUE USING THE PROPERTY AND KEEP PAYING THE MORTGAGE

Alternatively, one spouse may wish to refinance the mortgage into his or her sole name, thus removing

the other spouse from the mortgage. Further, the spouse giving up the house would execute a quitclaim deed to the spouse who will keep it, therefore giving up the legal right of ownership of the property. In this situation, the issue of the division of the equity or liability must be addressed to ensure both spouses maintain an equal financial footing.

A BUSINESS IS TREATED IN A SIMILAR FASHION IN THE DIVISION OF ASSETS

Dividing a business is a very complicated issue. Often times a Certified Public Accountant is hired to do a business valuation.

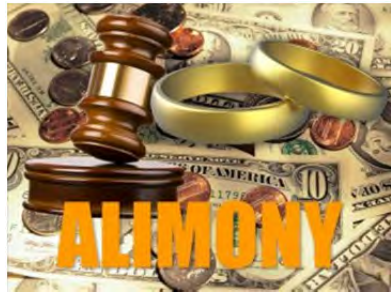
Also, the type of business structure is important to the issue of division. Is the business a partnership between the spouses or is it a type of corporation involving only one spouse?



This is a highly fact-sensitive issue that should be discussed in depth with your attorney and CPA.

SPOUSAL MAINTENANCE IN THE STATE OF INDIANA

Spousal maintenance (sometimes referred to as alimony) may be a possibility should you meet the statutory requirements. If a spouse is physically or mentally incapacitated to the extent that the ability of the incapacitated spouse to support himself or herself is materially affected then the award of spousal maintenance may be proper.



IF A SPOUSE LACKS SUFFICIENT PROPERTY OR ASSETS TO PROVIDE FOR HIS OR HER NEEDS, SPOUSAL MAINTENANCE MAY BE AWARDED

Additionally, if one spouse lacks sufficient property apportioned to them to provide for their basic needs and that spouse is the custodian of a child who suffers from a mental or physical incapacity that prevents the spouse from working, then that spouse may receive maintenance for a certain period of time.

TIMEFRAME OF SPOUSAL MAINTENANCE

When determining the amount of spousal maintenance to be paid the following factors must be considered: the educational level and earning capacity of each spouse, whether the spouse seeking to receive maintenance interrupted their education or employment to stay home and raise the kids, and the time and expense necessary to allow the spouse receiving maintenance to acquire sufficient education or seek employment.

In a situation where a spouse has suffered some sort of incapacity an award of maintenance will typically last during the period of the incapacity. For example, if Wife has a short-term disability that prevents her from working, and the disability is only expected to last six months to a year, the court may order husband to pay to Wife a certain sum of money for the duration of that time period.

A MENTALLY OR PHYSICALLY INCAPACITATED CHILD IS ANOTHER REASON FOR AWARDED SPOUSAL MAINTENANCE

Another thing to consider is if a spouse is taking care of a mentally or physically incapacitated child and that spouse cannot work due to the caretaking demands of the child. For example, Wife has to stay home because the child is so mentally or physically

impaired that the child requires 24/7 care. Wife may not be able to work a regular job because she has to maintain the caretaking responsibilities for that child.

THE EARNING CAPACITY OF EACH SPOUSE

Another instance in which spousal maintenance may be awarded is for “rehabilitative maintenance.” For example, Wife has been the stay-at-home parent for a number of years. Now a divorce action has been filed. Wife may need to either go back to school or find a job. As noted above, a court may award spousal maintenance for a sufficient period of time that the court considers appropriate, but not to exceed three years from the date of the final divorce decree.

A COURT CANNOT FORCE A SPOUSE TO GET A JOB

I have had clients (those who were ordered to pay spousal maintenance) ask if the court could order the other spouse to get a job. The answer is NO. Courts will order a specific sum of money for the purpose of allowing the spouse receiving it to be used for education or training that is sufficient for that spouse to find employment. Further, the court may award weekly, bi-weekly, monthly or quarterly maintenance payments.

A court is not going to say, “look, you need to get a job by this day and if you don’t you’re going to be in trouble.” Practically speaking, the spouse receiving maintenance may do what they want with that money, but the hope is that the spouse will use it to better himself or herself so they can get a job. If the spouse spends it on other things then that’s on them, because once the term for the payment of maintenance expires that’s it!

UNIQUE CHARACTERISTICS OF SPOUSAL MAINTENANCE

MAINTENANCE IS CONSIDERED TAXABLE INCOME

The person receiving spousal maintenance is receiving a benefit.

Therefore, it is considered income and the spouse will have to report it as such for tax purposes. The spouse paying it gets a tax deduction. I recommend that you speak with a tax professional regarding such issues.



REMEDIAL MEASURES FOR REFUSAL TO PAY SPOUSAL MAINTENANCE

What if the ex-spouse is “ticked off” and refuses to pay you maintenance? The remedy here would be to file a contempt petition with the court alleging that the spouse has willfully disobeyed the court’s order. You must speak to an attorney about any contempt issues and be sure to ask for reimbursement of your attorney’s fees.

CHILD CUSTODY AND PARENTING TIME IN A DIVORCE PROCEEDING

INDIANA PARENTING TIME GUIDELINES

We have a “default setting” in Indiana called the Indiana Parenting Time Guidelines. The Guidelines spell out in detail how custody and parenting time works. For example, if Mother is awarded custody of the child she will be designated as the “primary physical custodian” of the child for Guideline definitional purposes. In turn, Father would be deemed the “non-custodian” of the child, and depending on the age of the child, would have parenting time every other weekend from Friday at 6:00 p.m. until Sunday at 6:00 p.m. with one midweek visitation between 4:00 p.m. and 8:00 p.m.

The Indiana Parenting Time Guidelines also detail parenting time for all holidays, birthdays, school breaks, parenting time where distance is a factor, etc. It is important to realize that the Guidelines are based upon the minimum time



a non-custodial parent should spend with the child when the parties cannot reach their own agreement. In other words, the Guidelines are a floor and not a ceiling. The amount of information contained in the Guidelines is extensive and beyond the scope of this book. I will endeavor to explain the intricacies of the Guidelines in my next book.

MEASURES TO HELP ENSURE THAT EQUAL PARENTING TIME IS AWARDED

When expanding parenting time above what is recommended by the Parenting Time Guidelines the real key is to establish that the non-custodial parent has historically done a lot of the parental and caretaking responsibilities for the child. For example, if Dad is designated as the non-custodial parent and he wishes to have additional or equal parenting time, then we must establish that Dad has been involved in the day-to-day caretaking responsibilities of the child; including but not

limited to, taking the child for routine doctor's visits, attending parent-teacher conferences and school functions, helping with homework, participating in extracurricular activities, changing diapers, feeding and bathing the child, etc.

THE STEREOTYPICAL FATHER CANNOT DEVOTE MUCH TIME TO THE CHILDREN

The stereotype is that Dad goes and works 8, 10, 12 hours a day, comes home, maybe eats dinner at the kitchen table with the family, then he goes to watch TV and after that it's off to bed. Don't let this happen to you!



Just because you may not have a lot of time to spend with the kids other than maybe talking to them and asking them how school was, it's vitally important to do the things described above. Think of it this way: the more that you are involved in your child's day-to-day life the more receptive the court will be in granting you additional parenting time.

STRATEGIES TO ENSURE EQUAL PARENTING TIME

It is extremely important to document everything that you do with your child. For example, sign your child's homework sheet after helping them complete

the homework, keep a daily schedule of what you do with the kids from the time they wake up until they go to bed, keep a diary of your activities, keep a calendar of the number of overnights you have, etc.

CALCULATION OF CHILD SUPPORT IN A DIVORCE

Child Support is calculated using the Indiana Child Support Guidelines. It is actually a worksheet that is prepared online. The worksheet is a mathematical algorithm that is easy to work with.

On the worksheet there are two columns: one for the father and one for the mother. In each column you put in the gross weekly income of each parent. Then, you are allowed to deduct certain credits from the gross weekly income.

Also, there are credits for subsequent and prior born children, payments for child support for a prior born child and payments for spousal maintenance as well.

CREDITS FOR THE PAYMENT OF CHILD CARE AND HEALTHCARE

The most common credits noted on the child support worksheet include payments for work-

related childcare and the child’s portion of weekly health insurance premiums.

CREDITS FOR ANNUAL OVERNIGHTS

Parents also get credits for the annual number of overnights that they have with the children. For example, depending on the age of the child, the typical number of overnights that the non-custodial parent will be credited with pursuant to the Indiana Parenting Time Guidelines is 98. The online worksheet credits overnights in ranges from 0-51 to 184+.

WHAT WILL CHILD SUPPORT BE SET AT?

Once all of the values have been imputed into the online child support worksheet, the algorithm will spit out a bottom line number as the recommended amount of support to be paid by the non-custodial parent.



CHILD SUPPORT

There does not exist a lot of “wobble room” when determining support because the gross weekly income, the multipliers for subsequent and prior born children, and the costs for daycare and health insurance are relatively

constant. However, the real key here is that the amount of child support paid can fluctuate based upon the number of overnights that each parent exercises.

The details regarding the Indiana Child Support Guidelines are many and are outside of the scope of this book. I will endeavor to explain these details in greater depth in my next book.

REMEDIAL MEASURES FOR NON-PAYMENT OF CHILD SUPPORT

What if he/she refuses to pay support? If this happens, you may choose to file a contempt petition. You must speak with your attorney about the details of filing a contempt action because they are fact sensitive. Just as I described above regarding the nonpayment of spousal maintenance a contempt proceeding based upon the nonpayment of child support is similar. The most important thing here is to keep track of the arrearages (the amount of back support). The arrearages will continue to grow so long as support



is not being paid. Talk with your attorney about increasing the amount of support paid to you to help offset any arrearages. Also be sure to ask for reimbursement of your attorney's fees.

If you cannot afford to hire an attorney to help you with a child support enforcement action you may want to seek help from your county's Title IVD (4D) Agency. This agency is an arm of the prosecutor's office. Contact your county's prosecutor's office for specific information regarding this program.

If a parent refuses to pay child support, or substantially falls behind in its payment, that parent could have their driver's license suspended, their tax refund could be intercepted and applied to the arrearage amount, liens could be placed on their personal property, and they could even be charged with a criminal offense and face jail time.

NON PAYMENT OF CHILD SUPPORT MAY RESULT IN TERMINATION OF PROFESSIONAL LICENSES

If you're a professional; i.e., an attorney, dentist, doctor, realtor, etc. your license to practice in your field could be suspended for the nonpayment of support.

WHAT TO LOOK FOR REGARDING FAMILY LAW ATTORNEYS

When working with an experienced family law attorney remember that knowledge is power. When you meet with an attorney ask a lot of questions. This is **EXTREMELY** important...it's your divorce, your children, and your future! Make sure you walk into that attorney's office armed with questions.

Also, determine if the attorney is listening to what you're saying. Does the attorney treat you with empathy and compassion?

Further, ask the attorney if he or she actually has a policy regarding returning client telephone calls. If not ask why.

EXPLAINING THE OPTIONS IN LAYMAN'S TERMS

If the attorney is going to be abrasive or if they want to talk about how awesome they are then move on. The odds are that they don't care about you. You want your attorney to speak with you like a human being not like some legal egghead.

Consider these additional questions before you hire an attorney:

- Does the attorney provide you with relevant information that is easy to understand?
- Is he or she willing to educate you and answer your questions?
- Can the attorney provide you with a plan of action?
- Will the attorney you hire handle your case personally or will it be delegated to someone else?
- Is the attorney assertive without being arrogant?
- Is the attorney being honest and realistic with you or is he or she promising that you will get everything you want?
- Does the attorney make your children's best interests the number one priority?

I have been divorced myself (before I became an attorney) and I know how much it sucked. I spoke with three attorneys before I hired one. I looked for somebody who was going to take the time and explain the practical details to me and give me all of the information I needed--no bullshit about it.

REMAINING IN CONTACT WITH THE CLIENT IS OF THE UTMOST IMPORTANCE

I struggle with this myself. Due to the rigors of going to court, traveling to different counties, meeting with

clients and prospective clients, etc., returning telephone calls as quick as the client may like is a Herculean task. My policy is to return telephone calls within 24 hours, either personally or via my assistant. If you're having problems contacting your attorney or if there's not much communication back and forth, most likely it's not a very good fit. I always tell clients that if they cannot contact me via telephone, and the odds are great that you will not, to do one of four things: ask to leave a message with my assistant, ask to leave a voicemail, send me an email, or ask to have my assistant put a time on my calendar where we can speak face-to-face or over the phone.

THE UNIQUE ATTRIBUTES OF BELLINGER

LAW OFFICE

When you're working with me I take great pride in providing you with a myriad of relevant no B.S. information. Whether it is in the form of this book, the countless articles I have written, or the videos I have produced, I want you to utilize every bit of it. For example, the reason why I wrote this book, and will write more books, is because I want to put this information into your hands. I want to educate you. I think of my clients as my herd (and I mean this in

an endearing way), I have to feed them, take care of them, and give them what they need to grow during this phase of their life to get them to the place where they need to be.

I'M NOT TRYING TO BE A SALESMAN

Take this book and study it. Ask me all the questions you have. Go get a second opinion if you have to. I'm just saying access this information, use it, take this book to an attorney and say, "Look, I've got this book. This is what Bellinger says. What do you think about my issue?"



This is your divorce. It's your future and your children's future. Do what you have to do so that you can make an intelligent, well-informed decision.

DISCLAIMER

This publication is intended to be informational only. No legal advice is being given, and no attorney-client relationship is intended to be created by reading this material. If you are facing legal issues, whether criminal or civil, seek professional legal counsel to get your questions answered.

BELLINGER LAW OFFICE.

202 West Berry Street
Suite 500
Fort Wayne, Indiana, 46802

(260) 428-2214

www.RobertBellingerLaw.com

FACING DIVORCE IN INDIANA?

Your Guide to Successfully Navigating Family Law Matters



Robert Henry Bellinger II grew up in eastern Whitley County, graduated from Columbia City High School and went on to graduate from IPFW and Thomas M. Cooley Law School.

He has “seen the inside of a courtroom” and has extensive trial experience.

Attorney Bellinger is also the chairman and co-founder of the American Unity Party. The AUP is an independent, and therefore non-partisan, party designed to cater to the interests of the shrinking middle-class.

He believes that religious training and participation in volunteer activities are important to the communities in which we live and has participated in volunteer programs that are too numerous to list.

The Bellinger Law office was founded upon principles that you wouldn't expect from other law firms. Attorney Bellinger believes in providing the best customer service through bread-basket advocacy. By bread-basket advocacy Attorney Bellinger refers to finding a voice for the common middle class of citizens like you and I who make up the pulse of our communities.

Bellinger Law Office.

202 West Berry Street
Suite 500

Fort Wayne, Indiana, 46802

(260) 428-2214

www.RobertBellingerLaw.com

Written by:

Robert H. Bellinger II, Esq



Price: \$14.95