

HOUSE BILL No. 1064

DIGEST OF INTRODUCED BILL

Citations Affected: IC 31-35-3.5.

Synopsis: Terminating the parent-child relationship. Allows a parent who is the victim of an act of rape from which a child was conceived to file a petition to terminate the parent-child relationship between the child and the alleged perpetrator of the act of rape. Requires a court to terminate the parent-child relationship if the court finds: (1) by clear and convincing evidence that the alleged perpetrator committed an act of rape against the parent who filed the petition to terminate the parent-child relationship and that the child was conceived as a result of the act of rape; and (2) that terminating the parent-child relationship would be in the best interests of the child. Prohibits a parent who is at least 18 years of age at the time the act of rape occurred from filing a petition more than 180 days after the birth of the child.

Effective: July 1, 2016.

Slager

January 5, 2016, read first time and referred to Committee on Judiciary.



Second Regular Session of the 119th General Assembly (2016)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

HOUSE BILL No. 1064

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 31-35-3.5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2016]:

4 **Chapter 3.5. Termination of Parent-Child Relationship of an**
5 **Individual Who Committed an Act of Rape**

6 **Sec. 1. Proceedings under this chapter are governed by the**
7 **procedures prescribed by:**

- 8 (1) IC 31-32-1, IC 31-32-4 through IC 31-32-10, and
9 IC 31-32-12 through IC 31-32-15;
10 (2) IC 31-34; and
11 (3) IC 31-37;

12 **but are distinct from proceedings under IC 31-34 and IC 31-37.**

13 **Sec. 2. The probate court has concurrent original jurisdiction**
14 **with the juvenile court in proceedings on a petition to terminate a**
15 **parent-child relationship under this chapter.**

16 **Sec. 3. Subject to section 4 of this chapter, if a child was**
17 **conceived as a result of an act of rape, the parent who is the victim**



1 of the act of rape may file a verified petition with the juvenile or
 2 probate court to terminate the parent-child relationship between
 3 the child and the alleged perpetrator of the act of rape.

4 **Sec. 4. (a) A parent who:**

5 (1) is the victim of an act of rape; and

6 (2) is at least eighteen (18) years of age at the time the act of
 7 rape occurred;

8 may not file a petition for termination of the parent-child
 9 relationship under this chapter more than one hundred eighty
 10 (180) days after the birth of the child.

11 **(b) A parent who:**

12 (1) is the victim of an act of rape; and

13 (2) is less than eighteen (18) years of age at the time the act of
 14 rape occurred;

15 may not file a petition for termination of the parent-child
 16 relationship under this chapter more than two (2) years after
 17 reaching eighteen (18) years of age.

18 **Sec. 5. The verified petition filed under section 3 of this chapter**
 19 **must:**

20 (1) be entitled "In the Matter of the Termination of the
 21 Parent-Child Relationship of _____, a child, and
 22 _____, the parent"; and

23 (2) allege:

24 (A) that the alleged perpetrator committed an act of rape
 25 against the parent who filed the petition to terminate the
 26 parent-child relationship;

27 (B) that the child was conceived as a result of the act of
 28 rape described under clause (A); and

29 (C) that the termination of the parent-child relationship
 30 between the alleged perpetrator and the child is in the best
 31 interests of the child.

32 **Sec. 6. A showing by clear and convincing evidence that:**

33 (1) the alleged perpetrator committed an act of rape against
 34 a parent described in section 5(2)(A) of this chapter; and

35 (2) the child was conceived as a result of the act of rape;

36 is prima facie evidence that termination of the parent-child
 37 relationship between the alleged perpetrator and the child is in the
 38 best interests of the child.

39 **Sec. 7. (a) The court shall terminate the parent-child**
 40 **relationship if the court finds:**

41 (1) by clear and convincing evidence that the allegations in a
 42 petition described in section 5(2)(A) and 5(2)(B) of this



1 chapter are true; and
2 (2) that termination of the parent-child relationship is in the
3 best interests of the child.
4 (b) If the court does not find either element in subsection (a), the
5 court shall deny the petition.
6 Sec. 8. The court may appoint:
7 (1) a guardian ad litem;
8 (2) a court appointed special advocate; or
9 (3) both a guardian ad litem and a court appointed special
10 advocate;
11 for a child in a proceeding under this chapter, as provided in
12 IC 31-17-6-1.
13 Sec. 9. The court may issue an emergency custody order
14 removing the child from the custody of the alleged perpetrator of
15 the act of rape if the court finds it is in the best interests of the
16 child.
17 Sec. 10. The termination of the parent-child relationship under
18 this chapter does not extinguish the parent's obligation to pay child
19 support.
20 Sec. 11. The court shall send notice of the petition at the time of
21 filing to the department of child services in the county in which the
22 petition is filed.

