



February 26, 2016

ENGROSSED
HOUSE BILL No. 1064

DIGEST OF HB 1064 (Updated February 24, 2016 12:13 pm - DI 106)

Citations Affected: IC 31-9; IC 31-17; IC 31-35.

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. Prohibits a parent who is less than 18 years of age at the time the act of rape occurred from filing a petition more than 2 years after reaching the age of 18. Requires a court to stay the termination of the parent-child relationship proceedings if the court receives a notice from the department of child services that the child is the subject of a pending child in need of services petition.

Effective: July 1, 2016.

Slager, Hale, Soliday, Riecken

(SENATE SPONSORS — CHARBONNEAU, STEELE,
RANDOLPH LONNIE M, ZAKAS, HEAD, CRIDER, YOUNG R MICHAEL,
BRAY, DELPH, GLICK, BRODEN, TAYLOR)

January 5, 2016, read first time and referred to Committee on Judiciary.
January 11, 2016, reported — Do Pass.
January 21, 2016, read second time, amended, ordered engrossed.
January 22, 2016, engrossed.
January 25, 2016, read third time, passed. Yeas 93, nays 0.

SENATE ACTION

February 3, 2016, read first time and referred to Committee on Judiciary.
February 25, 2016, reported favorably — Do Pass.

EH 1064—LS 6552/DI 124



February 26, 2016

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.

ENGROSSED 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 31-9-2-0.9 IS ADDED TO THE INDIANA CODE
2 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2016]: **Sec. 0.9. "Act of rape", for purposes of IC 31-35-3.5,**
4 **means an act described in:**
5 (1) **IC 35-42-4-1; or**
6 (2) **IC 35-42-4-3(a) that:**
7 (A) **is committed by using or threatening the use of deadly**
8 **force or while armed with a deadly weapon;**
9 (B) **results in serious bodily injury; or**
10 (C) **is facilitated by furnishing the victim, without the**
11 **victim's knowledge, with a drug (as defined in**
12 **IC 16-42-19-2(1)) or a controlled substance (as defined in**
13 **IC 35-48-1-9) or knowing that the victim was furnished**
14 **with the drug or controlled substance without the victim's**
15 **knowledge.**
16 SECTION 2. IC 31-17-6-1, AS AMENDED BY P.L.133-2008,
17 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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JULY 1, 2016]: Sec. 1. A court, in a proceeding under IC 31-17-2, IC 31-17-4, this chapter, IC 31-17-7, ~~or~~ IC 31-28-5, **or IC 31-35-3.5**, may appoint a guardian ad litem, a court appointed special advocate, or both, for a child at any time.

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

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

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

(1) IC 31-32-1, IC 31-32-4 through IC 31-32-10, and IC 31-32-12 through IC 31-32-15;

(2) IC 31-34; and

(3) IC 31-37;

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

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

Sec. 3. Subject to section 4 of this chapter, if a child was conceived as a result of an act of rape, the parent who is the victim of the act of rape may file a verified petition with the juvenile or probate court to terminate the parent-child relationship between the child and the alleged perpetrator of the act of rape.

Sec. 4. (a) A parent who:

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

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

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

(b) A parent who:

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

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

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

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

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



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_____, the parent"; and

(2) allege:

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

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

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

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

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

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

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

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

(1) by clear and convincing evidence that the allegations in a petition described in section 5(2)(A) and 5(2)(B) of this chapter are true; and

(2) that termination of the parent-child relationship is in the best interests of the child.

(b) If the court does not find either element in subsection (a), the court shall deny the petition.

Sec. 8. The court may appoint:

(1) a guardian ad litem;

(2) a court appointed special advocate; or

(3) both a guardian ad litem and a court appointed special advocate;

for a child in a proceeding under this chapter, as provided in IC 31-17-6-1.

Sec. 9. The court may issue an emergency custody order removing the child from the custody of the alleged perpetrator of the act of rape if the court finds it is in the best interests of the child.

Sec. 10. (a) The court shall send notice of the petition at the time of filing to the department of child services in the county in which the petition is filed.

(b) If the department of child services:

(1) receives a notice under subsection (a); and



1 **(2) determines that the child who is the subject of the petition**
2 **for termination of the parent-child relationship is the subject**
3 **of a child in need of services petition in another court;**
4 **the department of child services shall notify the court in which the**
5 **petition for termination of the parent-child relationship is pending**
6 **of the pending child in need of services petition.**
7 **Sec. 11. If a court receives a notice from the department of child**
8 **services under section 10(b) of this chapter, the court shall stay the**
9 **proceeding for termination of the parent-child relationship until**
10 **the court in which the child in need of services petition is pending**
11 **enters a dispositional decree.**
12 **Sec. 12. A court in which a child in need of services petition is**
13 **pending shall notify a court in which a proceeding has been stayed**
14 **under section 11 of this chapter of a dispositional decree not later**
15 **than ten (10) days after the date the court enters the dispositional**
16 **decree.**



COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1064, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

(Reference is to HB 1064 as introduced.)

STEUERWALD

Committee Vote: Yeas 13, Nays 0

 HOUSE MOTION

Mr. Speaker: I move that House Bill 1064 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 31-9-2-0.9 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2016]: **Sec. 0.9. "Act of rape", for purposes of IC 31-35-3.5, means an act described in:**

(1) IC 35-42-4-1; or

(2) IC 35-42-4-3(a) that:

(A) is committed by using or threatening the use of deadly force or while armed with a deadly weapon;

(B) results in serious bodily injury; or

(C) is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.

SECTION 2. IC 31-17-6-1, AS AMENDED BY P.L.133-2008, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 1. A court, in a proceeding under IC 31-17-2, IC 31-17-4, this chapter, IC 31-17-7, ~~or~~ IC 31-28-5, **or IC 31-35-3.5**, may appoint a guardian ad litem, a court appointed special advocate, or both, for a child at any time."

Page 3, delete lines 17 through 19.

Page 3, line 20, delete "11." and insert "**10. (a)**".

Page 3, after line 22, begin a new paragraph and insert:

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"(b) If the department of child services:

(1) receives a notice under subsection (a); and

(2) determines that the child who is the subject of the petition for termination of the parent-child relationship is the subject of a child in need of services petition in another court;

the department of child services shall notify the court in which the petition for termination of the parent-child relationship is pending of the pending child in need of services petition.

Sec. 11. If a court receives a notice from the department of child services under section 10(b) of this chapter, the court shall stay the proceeding for termination of the parent-child relationship until the court in which the child in need of services petition is pending enters a dispositional decree.

Sec. 12. A court in which a child in need of services petition is pending shall notify a court in which a proceeding has been stayed under section 11 of this chapter of a dispositional decree not later than ten (10) days after the date the court enters the dispositional decree."

Renumber all SECTIONS consecutively.

(Reference is to HB 1064 as printed January 12, 2016.)

SLAGER

COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred House Bill No. 1064, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is to HB1064 as reprinted January 22, 2016.)

STEELE, Chairperson

Committee Vote: Yeas 9, Nays 0

