

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 ENROLLED ACT No. 1064

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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:*

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.

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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 \_\_\_\_\_, 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

(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.**



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Speaker of the House of Representatives

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President of the Senate

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President Pro Tempore

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

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