

HOUSE BILL No. 1071

DIGEST OF INTRODUCED BILL

Citations Affected: IC 31-9-2; IC 31-14-14-3; IC 31-17; IC 31-19-16.5-1.

Synopsis: Sibling visitation. Provides that a child's adult sibling may file a petition seeking visitation rights with the child in certain circumstances. Establishes factors for the court to consider in determining whether granting sibling visitation rights to an adult sibling is in the best interests of the child. Requires the court to enter a decree after holding a hearing. Allows the court to modify or vacate an order granting or denying sibling visitation rights with an adult sibling.

Effective: July 1, 2018.

Olthoff

January 3, 2018, read first time and referred to Committee on Judiciary.



Second Regular Session of the 120th General Assembly (2018)

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 2017 Regular Session of the General Assembly.

HOUSE BILL No. 1071

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 31-9-2-84.6, AS ADDED BY P.L.50-2006,
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2018]: Sec. 84.6. "Nonrelocating individual", for purposes of
4 IC 31-14-13 and IC 31-17-2.2, means an individual who has, or has
5 filed an action seeking:
6 (1) custody of the child;
7 (2) parenting time with the child; or
8 (3) visitation with the child under IC 31-17-5 **or IC 31-17-8.**
9 SECTION 2. IC 31-9-2-107.5, AS ADDED BY P.L.50-2006,
10 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
11 JULY 1, 2018]: Sec. 107.5. "Relocating individual", for purposes of
12 IC 31-17-2.2, means an individual who has or is seeking:
13 (1) custody of a child; or
14 (2) parenting time with a child;
15 and intends to move the individual's principal residence. The term does
16 not include an individual granted visitation rights under IC 31-17-5 **or**
17 **IC 31-17-8.**



1 SECTION 3. IC 31-9-2-7.5 IS ADDED TO THE INDIANA CODE
 2 AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY
 3 1, 2018]: **Sec. 7.5. "Adult sibling", for purposes of IC 31-17-8,**
 4 **means a person who:**

- 5 (1) **is at least eighteen (18) years of age; and**
 6 (2) **has a brother or sister by blood or half-blood who is less**
 7 **than eighteen (18) years of age.**

8 SECTION 4. IC 31-9-2-117.4 IS ADDED TO THE INDIANA
 9 CODE AS A **NEW SECTION TO READ AS FOLLOWS**
 10 [EFFECTIVE JULY 1, 2018]: **Sec. 117.4. "Sibling visitation", for**
 11 **purposes of IC 31-17-2.2, means visitation rights granted to an**
 12 **adult sibling under IC 31-17-8.**

13 SECTION 5. IC 31-14-14-3 IS AMENDED TO READ AS
 14 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 3. An order granting or
 15 denying visitation rights to a noncustodial parent does not affect
 16 visitation rights granted to a grandparent under IC 31-17-5-1 or
 17 IC 31-17-5-10 (or IC 31-1-11.7-2 before its repeal) **or an adult sibling**
 18 **under IC 31-17-8.**

19 SECTION 6. IC 31-17-2.2-1, AS ADDED BY P.L.50-2006,
 20 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 21 JULY 1, 2018]: Sec. 1. (a) A relocating individual must file a notice of
 22 the intent to move with the clerk of the court that:

- 23 (1) issued the custody order or parenting time order; or
 24 (2) if subdivision (1) does not apply, has jurisdiction over the
 25 legal proceedings concerning the custody of or parenting time
 26 with a child;

27 and send a copy of the notice to any nonrelocating individual.

28 (b) Upon motion of a party, the court shall set the matter for a
 29 hearing to review and modify, if appropriate, a custody order, parenting
 30 time order, grandparent visitation order, **sibling visitation order**, or
 31 child support order. The court shall take into account the following in
 32 determining whether to modify a custody order, parenting time order,
 33 grandparent visitation order, **sibling visitation order**, or child support
 34 order:

- 35 (1) The distance involved in the proposed change of residence.
 36 (2) The hardship and expense involved for the nonrelocating
 37 individual to exercise parenting time, ~~or~~ grandparent visitation, **or**
 38 **sibling visitation.**
 39 (3) The feasibility of preserving the relationship between the
 40 nonrelocating individual and the child through suitable parenting
 41 time, ~~and~~ grandparent visitation, **or sibling visitation**
 42 arrangements, including consideration of the financial



1 circumstances of the parties.

2 (4) Whether there is an established pattern of conduct by the
3 relocating individual, including actions by the relocating
4 individual to either promote or thwart a nonrelocating individual's
5 contact with the child.

6 (5) The reasons provided by the:

7 (A) relocating individual for seeking relocation; and

8 (B) nonrelocating parent for opposing the relocation of the
9 child.

10 (6) Other factors affecting the best interest of the child.

11 (c) The court may award reasonable attorney's fees for a motion
12 filed under this section in accordance with IC 31-15-10.

13 SECTION 7. IC 31-17-2.2-2, AS ADDED BY P.L.50-2006,
14 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
15 JULY 1, 2018]: Sec. 2. (a) If a party provides notice of relocation at an
16 initial hearing to determine custody, the court may consider the factors
17 set forth in this chapter in the court's initial custody determination.

18 (b) The court may consider a proposed relocation of a child as a
19 factor in determining whether to modify a custody order, parenting time
20 order, grandparent visitation order, **sibling visitation order**, or child
21 support order.

22 SECTION 8. IC 31-17-2.2-3, AS AMENDED BY P.L.1-2007,
23 SECTION 194, IS AMENDED TO READ AS FOLLOWS
24 [EFFECTIVE JULY 1, 2018]: Sec. 3. (a) Except as provided in section
25 4 of this chapter, an individual required to file a notice under
26 IC 31-14-13-10 or section 1 of this chapter must:

27 (1) send the notice to each nonrelocating individual:

28 (A) by registered or certified mail; and

29 (B) not later than ninety (90) days before the date that the
30 relocating individual intends to move; and

31 (2) provide the following information in the notice:

32 (A) The intended new residence, including the:

33 (i) address; and

34 (ii) mailing address of the relocating individual, if the
35 mailing address is different than the address under item (i).

36 (B) The home telephone number of the new residence.

37 (C) Any other applicable telephone number for the relocating
38 individual.

39 (D) The date that the relocating individual intends to move.

40 (E) A brief statement of the specific reasons for the proposed
41 relocation of the child.

42 (F) A proposal for a revised schedule of parenting time, or



1 grandparent visitation, **or sibling visitation** with the child.

2 (G) A statement that a parent must file an objection to the
3 relocation of the child with the court not later than sixty (60)
4 days after receipt of the notice.

5 (H) A statement that a nonrelocating individual may file a
6 petition to modify a custody order, parenting time order,
7 grandparent visitation order, **sibling visitation order**, or child
8 support order.

9 (b) Except as provided in section 4 of this chapter, if the relocating
10 individual is unable to provide the information required under
11 subsection (a)(2) not later than ninety (90) days before the relocating
12 individual intends to move, the relocating individual shall provide the
13 information in the manner required under subsection (a) not later than
14 ten (10) days after the date that the relocating individual obtains the
15 information required to be provided under subsection (a)(2). However,
16 the relocating individual must provide all the information required
17 under subsection (a)(2) not later than thirty (30) days before the
18 relocating individual intends to move to the new residence.

19 SECTION 9. IC 31-17-6-1, AS AMENDED BY P.L.64-2016,
20 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
21 JULY 1, 2018]: Sec. 1. A court, in a proceeding under IC 31-17-2,
22 IC 31-17-4, this chapter, IC 31-17-7, **IC 31-17-8**, IC 31-28-5, or
23 IC 31-35-3.5, may appoint a guardian ad litem, a court appointed
24 special advocate, or both, for a child at any time.

25 SECTION 10. IC 31-17-7-1 IS AMENDED TO READ AS
26 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 1. (a) The court
27 periodically may order a party to pay a reasonable amount for the cost
28 to the other party of maintaining or defending any proceeding under
29 IC 31-17-2, IC 31-17-4, IC 31-17-6, **IC 31-17-8**, or this chapter and for
30 attorney's fees and mediation services, including amounts for legal
31 services provided and costs incurred before the commencement of the
32 proceedings or after entry of judgment.

33 (b) The court may order the amount to be paid directly to the
34 attorney, who may enforce the order in the attorney's name.

35 SECTION 11. IC 31-17-7-2, AS AMENDED BY P.L.145-2006,
36 SECTION 241, IS AMENDED TO READ AS FOLLOWS
37 [EFFECTIVE JULY 1, 2018]: Sec. 2. Neither costs nor attorney's fees
38 may be taxed against an agency or its agents that is authorized to
39 maintain proceedings under IC 31-17-2, IC 31-17-4, IC 31-17-6,
40 **IC 31-17-8**, or this chapter by Title IV-D of the federal Social Security
41 Act (42 U.S.C. 651 through 669) and IC 31-25-4-17.

42 SECTION 12. IC 31-17-8 IS ADDED TO THE INDIANA CODE



1 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
2 JULY 1, 2018]:

3 **Chapter 8. Visitation With an Adult Sibling**

4 **Sec. 1. (a) Except as provided in subsection (c), an adult sibling**
5 **may file a petition seeking visitation rights with a sibling who is a**
6 **child who is at least two (2) years of age if:**

7 (1) a parent of both the child and the child's adult sibling is
8 deceased;

9 (2) the marriage of the parents of the child and the child's
10 adult sibling has been dissolved in Indiana; or

11 (3) subject to subsection (b), the child was born out of
12 wedlock.

13 (b) A court may not grant visitation rights to the adult sibling of
14 a child who is born out of wedlock under subsection (a)(3) if the
15 child's and the adult sibling's father has not established paternity
16 in relation to the child and the adult sibling, and the child and the
17 adult sibling do not have the same biological mother.

18 (c) An adult sibling may not seek visitation rights under this
19 chapter with a child receiving foster care.

20 **Sec. 2. (a) The court may grant visitation rights if the court**
21 **determines that visitation rights are in the best interests of the**
22 **child.**

23 (b) In determining the best interests of the child under this
24 section, the court shall consider all relevant factors, including the
25 following:

26 (1) Whether an adult sibling has had or has attempted to have
27 meaningful contact with the child.

28 (2) The age and sex of the child and the adult sibling.

29 (3) The wishes of the child's parents.

30 (4) The wishes of the child, with more consideration given to
31 the child's wishes if the child is at least fourteen (14) years of
32 age.

33 (5) The mental and physical health of all individuals involved.

34 (c) The court may interview the child in chambers to assist the
35 court in determining the child's perception of whether visitation
36 with an adult sibling is in the best interests of the child.

37 (d) The court may permit counsel to be present at the interview.
38 If counsel is present:

39 (1) a record may be made of the interview; and

40 (2) the interview may be made part of the record for purposes
41 of appeal.

42 (e) There is a rebuttable presumption that a fit parent's decision



1 concerning visitation is in the child's best interest.

2 **Sec. 3. A proceeding for sibling visitation must be commenced**
 3 **by the filing of a petition entitled, "In Re the visitation of _____".**

4 **The petition must:**

5 **(1) be filed by an adult sibling entitled to seek visitation rights**
 6 **under this chapter;**

7 **(2) be verified; and**

8 **(3) set forth the following:**

9 **(A) The names and relationship of:**

10 **(i) the petitioning adult sibling;**

11 **(ii) each child with whom visitation is sought; and**

12 **(iii) the custodial parent or guardian of each child.**

13 **(B) The present address of each person named in clause**

14 **(A).**

15 **(C) The date of birth of each child with whom visitation is**
 16 **sought.**

17 **(D) The status under section 1 of this chapter upon which**
 18 **the adult sibling seeks visitation.**

19 **(E) The relief sought.**

20 **Sec. 4. An adult sibling seeking visitation rights with a child**
 21 **under section 1 of this chapter shall file a petition requesting**
 22 **reasonable visitation rights:**

23 **(1) in a circuit, superior, or probate court of the county in**
 24 **which the child resides; or**

25 **(2) in the court having jurisdiction over the dissolution of the**
 26 **parents' marriage in a case described in section 1(a)(2) of this**
 27 **chapter.**

28 **Sec. 5. Whenever a petition is filed, a copy of the petition,**
 29 **together with a copy of a summons, shall be served upon the**
 30 **custodial and noncustodial parent or guardian of each child with**
 31 **whom visitation is sought in the same manner as service of**
 32 **summons in civil actions generally.**

33 **Sec. 6. Upon hearing evidence in support of and opposition to a**
 34 **petition filed under this chapter, the court shall enter a decree**
 35 **setting forth the court's findings and conclusions.**

36 **Sec. 7. The court may modify or vacate an order granting or**
 37 **denying visitation rights under this chapter at any time if the court**
 38 **determines, after a hearing, that it is in the best interests of the**
 39 **child.**

40 **Sec. 8. (a) This section applies to a child born out of wedlock.**

41 **(b) Visitation rights provided for in section 1 or 10 of this**
 42 **chapter survive the establishment of paternity of a child by a court**



1 proceeding other than an adoption proceeding.

2 **Sec. 9. (a) Except as provided in subsection (b), an order**
 3 **granting visitation rights under this chapter automatically**
 4 **terminates upon entry of an adoption decree granting the adoption**
 5 **of the child.**

6 **(b) Subject to section 7 of this chapter, visitation rights provided**
 7 **for in section 1 or 10 of this chapter survive the adoption of the**
 8 **child by any of the following:**

9 **(1) A stepparent.**

10 **(2) A person who is biologically related to the child as:**

11 **(A) a grandparent;**

12 **(B) a sibling;**

13 **(C) an aunt;**

14 **(D) an uncle;**

15 **(E) a niece; or**

16 **(F) a nephew.**

17 **Sec. 10. If the marriage of the child's and the adult sibling's**
 18 **parents has been dissolved in another state, the child's adult sibling**
 19 **may seek visitation rights if:**

20 **(1) the custody decree entered in the action for dissolution of**
 21 **marriage does not bind the adult sibling under IC 31-21-3-1**
 22 **(or IC 31-17-3-12 before its repeal); and**

23 **(2) an Indiana court would have jurisdiction under**
 24 **IC 31-21-5-1 (or IC 31-17-3-3 before its repeal), IC 31-21-5-2,**
 25 **or IC 31-21-5-3 (or IC 31-17-3-14 before its repeal) to grant**
 26 **visitation rights to the adult sibling in a modification decree.**

27 **SECTION 13. IC 31-19-16.5-1 IS AMENDED TO READ AS**
 28 **FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 1. (a) At the time an**
 29 **adoption decree is entered, the court entering the decree may order the**
 30 **adoptive parents to provide specific postadoption contact for an**
 31 **adopted child who is at least two (2) years of age with a pre-adoptive**
 32 **sibling if:**

33 **(1) the court determines that the postadoption contact would serve**
 34 **the best interests of the adopted child; and**

35 **(2) each adoptive parent consents to the court's order for**
 36 **postadoption contact privileges.**

37 **(b) In determining whether postadoption contact would serve**
 38 **the best interests of the adopted child under this section, the court**
 39 **shall consider whether a sibling visitation order under IC 31-17-8**
 40 **will automatically terminate upon entry of the adoption decree.**

