

HOUSE BILL No. 1134

DIGEST OF INTRODUCED BILL

Citations Affected: IC 31-32-17; IC 31-33-8-7.

Synopsis: Department of child services interview with child. Requires the department of child services to obtain a court order to interview a child at the child's school without notice to the child's parent or guardian. Specifies the findings that a court must make to issue such an order.

Effective: July 1, 2023.

Jackson

January 10, 2023, read first time and referred to Committee on Family, Children and Human Affairs.



First Regular Session of the 123rd General Assembly (2023)

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 2022 Regular Session of the General Assembly.

HOUSE BILL No. 1134

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 31-32-17 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2023]:

4 **Chapter 17. Order for Ex Parte Interview With Child**

5 **Sec. 1. As used in this chapter, "school" means:**

- 6 (1) an elementary school (as defined by IC 20-18-2-4); or
7 (2) a high school (as defined by IC 20-18-2-7).

8 **Sec. 2. (a) The department may file, in a court in the county in**
9 **which a school attended by a child is located, a petition requesting**
10 **the issuance of an ex parte order directing the school to allow an**
11 **employee of the department to interview the child without first**
12 **notifying the child's parent, guardian, or custodian.**

13 **(b) A court that receives a petition for an order under**
14 **subsection (a) may issue the order without a hearing if the petition**
15 **states facts sufficient for the court to find that:**

- 16 (1) the department has definite and articulable evidence
17 giving rise to a reasonable suspicion that the child or a child



1 **residing in the home with the child:**

2 **(A) has been abused or neglected; or**

3 **(B) is in imminent danger of abuse or neglect;**

4 **(2) the department:**

5 **(A) has made reasonable efforts to obtain consent to**
 6 **interview the child from the child's parent, guardian, or**
 7 **custodian; and**

8 **(B) has been unable to obtain the consent of the child's**
 9 **parent, guardian, or custodian;**

10 **(3) there is no less intrusive alternative to the department's**
 11 **interview of the child under this chapter that would**
 12 **reasonably and sufficiently protect the child's imminent**
 13 **health or safety; and**

14 **(4) one (1) or more of the following applies:**

15 **(A) The parent, guardian, or custodian of the child:**

16 **(i) is the alleged perpetrator of the abuse or neglect of**
 17 **the child; or**

18 **(ii) is allegedly aware of the abuse or neglect of the child**
 19 **and has allegedly not ensured the child's safety.**

20 **(B) There is reason to believe that:**

21 **(i) the safety of the child might be jeopardized; or**

22 **(ii) essential evidence might not be available;**

23 **if the department's interview of the child is delayed or the**
 24 **child's parent, guardian, or custodian is notified before the**
 25 **department's interview of the child.**

26 **(C) The child is voluntarily receiving services at an**
 27 **emergency shelter or shelter care facility without the**
 28 **presence or consent of the child's parent, guardian, or**
 29 **custodian.**

30 **(c) A court that receives a petition under subsection (a) shall,**
 31 **not later than the next day that is not a Saturday, Sunday, or legal**
 32 **holiday:**

33 **(1) issue the order requested in the petition; or**

34 **(2) notify the department that the court has denied the**
 35 **petition.**

36 SECTION 2. IC 31-33-8-7, AS AMENDED BY P.L.213-2021,
 37 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 38 JULY 1, 2023]: Sec. 7. (a) The department's assessment, to the extent
 39 that is reasonably possible, must include the following:

40 (1) The nature, extent, and cause of the known or suspected child
 41 abuse or neglect.

42 (2) The identity of the person allegedly responsible for the child



- 1 abuse or neglect.
- 2 (3) The names and conditions of other children in the home.
- 3 (4) An evaluation of the parent, guardian, custodian, or person
- 4 responsible for the care of the child.
- 5 (5) The home environment and the relationship of the child to the
- 6 parent, guardian, or custodian or other persons responsible for the
- 7 child's care.
- 8 (6) All other data considered pertinent.
- 9 (b) The assessment may include the following:
- 10 (1) A visit to the child's home.
- 11 (2) An interview with the subject child:
- 12 (A) upon receiving parental consent;
- 13 (B) upon receiving a court order; or
- 14 (C) if there are exigent circumstances as defined by
- 15 IC 31-9-2-44.1.
- 16 (3) A physical, psychological, or psychiatric examination of any
- 17 child in the home.
- 18 (c) If:
- 19 (1) admission to the home, the school, or any other place that the
- 20 child may be; or
- 21 (2) permission of the parent, guardian, custodian, or other persons
- 22 responsible for the child for the physical, psychological, or
- 23 psychiatric examination;
- 24 under subsection (b) cannot be obtained, the juvenile court, upon good
- 25 cause shown, shall follow the procedures under IC 31-32-12.
- 26 (d) If a custodial parent, a guardian, or a custodian of a child refuses
- 27 to allow the department to interview the child after the caseworker has
- 28 attempted to obtain the consent of the custodial parent, guardian, or
- 29 custodian to interview the child, the department may petition a court to
- 30 order the custodial parent, guardian, or custodian to make the child
- 31 available to be interviewed by the caseworker.
- 32 (e) If the court finds that:
- 33 (1) a custodial parent, a guardian, or a custodian has been
- 34 informed of the hearing on a petition described under subsection
- 35 (d); and
- 36 (2) the department has made reasonable and unsuccessful efforts
- 37 to obtain the consent of the custodial parent, guardian, or
- 38 custodian to interview the child;
- 39 the court shall specify in the order the efforts the department made to
- 40 obtain the consent of the custodial parent, guardian, or custodian and
- 41 may grant the motion to interview the child, either with or without the
- 42 custodial parent, guardian, or custodian being present.



1 (f) If the department requests to interview a child at the child's
 2 school; the school; except a nonaccredited nonpublic school that has
 3 less than one (1) employee; A school shall grant access to the a
 4 department employee to interview the a child alone; at the school if
 5 the department employee, upon arriving at the school, presents:

6 (1) their the department employee's credentials as a department
 7 case worker, or other proof of employment with the department;
 8 for inspection upon arrival at the school; and

9 (2) a written statement that the department "has parental consent
 10 or a court order, or exigent circumstances exist as defined by
 11 IC 31-9-2-44.1 to interview [insert child's name]". The written
 12 statement under this subdivision shall not disclose any of the facts
 13 of the allegations or evidence and may be transmitted to the
 14 school electronically.

15 (2) a court order issued under IC 31-32-17 directing the
 16 school to allow an employee of the department to interview
 17 the child without first notifying the child's parent, guardian,
 18 or custodian.

19 (g) If the department provides a written statement court order to a
 20 school under subsection (f)(2), the school shall:

21 (1) not maintain the written statement court order in the child's
 22 file; and

23 (2) protect the child and the child's family's confidentiality
 24 regarding the written statement court order and the interview.

25 (h) If a parent, guardian, or custodian of a child who is the subject
 26 of a substantiated investigation of abuse or neglect is an active duty
 27 member of the military, the department shall notify the United States
 28 Department of Defense Family Advocacy Program of the assessment
 29 concerning the child of the active duty member of the military upon
 30 request.

