

HOUSE BILL No. 1188

DIGEST OF INTRODUCED BILL

Citations Affected: IC 31-9-2-130.4; IC 31-34; IC 31-35-2.

Synopsis: Compliance with CHINS dispositional decrees. Provides that if the department of child services (department) takes a child into custody, the department may not release the child to the child's parent, guardian, or custodian if: (1) the parent, guardian, or custodian, or a household member of the parent, guardian, or custodian, is the subject of a substantiated allegation of abuse of a child; and (2) the child expresses a desire to not be released to the parent, guardian, or custodian; and may not allow the parent, guardian, or custodian to have contact with the child until: (A) the child consents to contact with the parent, guardian, or custodian; or (B) the child's child in need of services case is closed; whichever occurs first. Provides that if a dispositional decree requires a child's parent, guardian, or custodian to participate in a program of care, treatment, or rehabilitation and the court finds that the parent, guardian, or custodian has failed to make consistent and timely progress toward the goals set forth in the dispositional decree, the department: (1) may not return the child to the home of the parent, guardian, or custodian; and (2) may not allow the parent, guardian, or custodian in person contact with the child unless the contact is approved as being in the child's best interest by: (A) a court appointed special advocate or guardian ad litem; and (B) a licensed marriage and family therapist, if one has been appointed for the child; until the court finds that the parent, guardian, or custodian is making consistent and timely progress toward the goals set forth in the dispositional decree. Provides that if, in a 12 month periodic case review for a child in need of services, the court finds that the child's parent, guardian, or custodian has failed to make consistent and timely

(Continued next page)

Effective: July 1, 2023.

Lauer

January 10, 2023, read first time and referred to Committee on Judiciary.



progress in any service that was ordered by the court and that was made available to the parent, guardian, or custodian by the department, the court shall order: (1) that the permanency plan for the child be changed to a concurrent plan in which at least one intended permanency arrangement is not reunification; or (2) that the intended permanency arrangement for the child be changed to placement of the child for adoption. Provides: (1) that in a 15 month periodic case review for a child in need of services, the court shall order: (A) that the permanency plan for the child be changed to a concurrent plan in which at least one intended permanency arrangement is not reunification; or (B) that the intended permanency arrangement for the child be changed to placement of the child for adoption; and (2) that thereafter, the intended permanency arrangement for the child may not be changed to solely reunification. Amends and adds to the conditions under which reasonable efforts to reunify a child with the child's parent, guardian, or custodian, or preserve a child's family, are not required. Provides that: (1) if a parent, guardian, or custodian of a child in need of services is involuntarily discharged three or more times from a program or service in which the parent, guardian, or custodian is required to participate under the child's dispositional decree, the court may order the parent, guardian, or custodian to pay the cost of subsequent participation in the program or service; and (2) if the dispositional decree requires the parent, guardian, or custodian to submit to drug testing and the parent, guardian, or custodian: (A) tests positive for a controlled substance; or (B) fails to submit to a required drug test; three or more times, the court may order the parent, guardian, or custodian to pay the cost of any subsequent drug testing required under the dispositional decree. Establishes conditions under which a parent's consent to termination of the parent's parent-child relationship with respect to a child is implied without further action of the court, and provides that the parent's implied consent is a factor weighing in favor of terminating the parent's relationship with the child. Provides that a court finding that a parent has failed to make consistent and timely progress in any service that was ordered by the court in a dispositional decree and that was made available to the parent by the department is a factor weighing in favor of terminating the parent's relationship with the child. Requires termination of the parent-child relationship with regard to a child who is: (1) taken into custody; and (2) adjudicated a child in need of services; on two separate occasions in a two year period. Provides, for purposes of a petition to terminate the parent-child relationship, that: (1) the court finding that there is a satisfactory plan for the care and treatment of the child, and that the plan is in the child's best interests, is a factor weighing in favor of terminating the parent-child relationship; and (2) if the intended permanency arrangement for the child is placement of the child for adoption, a specific adoptive home need not have been identified in order for the plan to be satisfactory or in the child's best interests.



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. 1188

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 31-9-2-130.4 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2023]: **Sec. 130.4. "Trial home visit" means**
4 **a temporary return of a child to the home of a parent, guardian, or**
5 **custodian from which the child was removed in accordance with 45**
6 **CFR 1356.21(e).**

7 SECTION 2. IC 31-34-5-3, AS AMENDED BY P.L.146-2008,
8 SECTION 580, IS AMENDED TO READ AS FOLLOWS
9 [EFFECTIVE JULY 1, 2023]: Sec. 3. (a) **Except as provided in**
10 **subsections (b) and (c),** the juvenile court shall release the child to the
11 child's parent, guardian, or custodian. ~~However,~~

12 **(b)** The court may order the child detained if the court makes
13 written findings of fact upon the record of probable cause to believe
14 that the child is a child in need of services and that:

15 (1) detention is necessary to protect the child;



(2) the child is unlikely to appear before the juvenile court for subsequent proceedings;

(3) the child has a reasonable basis for requesting that the child not be released;

(4) the parent, guardian, or custodian:

(A) cannot be located; or

(B) is unable or unwilling to take custody of the child; or

(5) consideration for the safety of the child precludes the use of family services to prevent removal of the child.

(c) If:

(1) the child's parent, guardian, or custodian, or a household member of the child's parent, guardian, or custodian, is the subject of a substantiated allegation of abuse of a child; and

(2) the child expresses a desire to not be released to the parent, guardian, or custodian;

the court shall order the child detained.

(d) If a child is detained under subsection (c), the department may not allow the parent, guardian, or custodian to have contact with the child:

(1) until the child consents to contact with the parent, guardian, or custodian; or

(2) if the child's detention results in the filing of a petition alleging that the child is a child in need of services, until the child in need of services case is closed;

whichever occurs first.

~~(b)~~ **(e)** The juvenile court shall include in any order approving or requiring detention of a child all findings and conclusions required under:

(1) applicable provisions of Title IV-E of the federal Social Security Act (42 U.S.C. 670 et seq.); or

(2) any applicable federal regulation, including 45 CFR 1356.21; as a condition of eligibility of a child in need of services for assistance under Title IV-E or any other federal law.

~~(e)~~ **(f)** Inclusion in a juvenile court order of language approved and recommended by the judicial conference of Indiana, in relation to:

(1) removal from the child's home; or

(2) detention;

of a child who is alleged to be, or adjudicated as, a child in need of services constitutes compliance with subsection ~~(b)~~: **(e)**.

SECTION 3. IC 31-34-19-6, AS AMENDED BY P.L.258-2019, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 6. If consistent with the safety of the community



1 and the best interest of the child, the juvenile court shall enter a
2 dispositional decree that:

3 (1) is:

4 (A) in the least restrictive (most family like) and most
5 appropriate setting available; and

6 (B) close to the parents' home, consistent with the best interest
7 and special needs of the child;

8 (2) least interferes with family autonomy;

9 (3) is least disruptive of family life;

10 (4) imposes the least restraint on the freedom of the child and the
11 child's parent, guardian, or custodian;

12 (5) provides a reasonable opportunity for participation by the
13 child's parent, guardian, or custodian; and

14 (6) provides a reasonable opportunity for the child's parent who:

15 (A) is incarcerated; and

16 (B) has maintained a meaningful role in the child's life;

17 to maintain a relationship with the child, **subject to**
18 **IC 31-35-2-3.5.**

19 SECTION 4. IC 31-34-20-1, AS AMENDED BY P.L.172-2022,
20 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
21 JULY 1, 2023]: Sec. 1. (a) Subject to this section and section 1.5 of this
22 chapter, if a child is a child in need of services, the juvenile court may
23 enter one (1) or more of the following dispositional decrees:

24 (1) Order supervision of the child by the department.

25 (2) Order the child to receive outpatient treatment:

26 (A) at a social service agency or a psychological, a psychiatric,
27 a medical, or an educational facility; or

28 (B) from an individual practitioner.

29 (3) Remove the child from the child's home and authorize the
30 department to place the child in another home, shelter care
31 facility, child caring institution, group home, or secure private
32 facility. Placement under this subdivision includes authorization
33 to control and discipline the child.

34 (4) Award wardship of the child to the department for
35 supervision, care, and placement.

36 (5) Partially or completely emancipate the child under section 6
37 of this chapter.

38 (6) Order the child's parent, guardian, or custodian to complete
39 services recommended by the department and approved by the
40 court under IC 31-34-18 and IC 31-34-19, which may include
41 services described in section 3(a) of this chapter.

42 (7) Order a person who is a party to refrain from direct or indirect



1 contact with the child.

2 (8) Order a perpetrator of child abuse or neglect to refrain from
3 returning to the child's residence.

4 (b) A juvenile court may not place a child in a home or facility that
5 is located outside Indiana unless:

6 (1) the placement is recommended or approved by the director of
7 the department or the director's designee; or

8 (2) the juvenile court makes written findings based on clear and
9 convincing evidence that:

10 (A) the out-of-state placement is appropriate because there is
11 not an equivalent facility with adequate services located in
12 Indiana;

13 (B) institutional care in the other jurisdiction is in the best
14 interest of the child and will not produce undue hardship; or

15 (C) the location of the home or facility is within a distance not
16 greater than fifty (50) miles from the county of residence of
17 the child.

18 (c) If a dispositional decree under this section:

19 (1) orders or approves removal of a child from the child's home or
20 awards wardship of the child to the department; and

21 (2) is the first juvenile court order in the child in need of services
22 proceeding that authorizes or approves removal of the child from
23 the child's parent, guardian, or custodian;

24 the juvenile court shall include in the decree the appropriate findings
25 and conclusions described in ~~IC 31-34-5-3(b)~~ **IC 31-34-5-3(e)** and
26 ~~IC 31-34-5-3(c)~~ **IC 31-34-5-3(f)**.

27 SECTION 5. IC 31-34-21-5.2 IS ADDED TO THE INDIANA
28 CODE AS A NEW SECTION TO READ AS FOLLOWS
29 [EFFECTIVE JULY 1, 2023]: **Sec. 5.2. (a) This section applies if:**

30 **(1) a child is removed from the home of the child's parent,**
31 **guardian, or custodian under IC 31-34-2; and**

32 **(2) a dispositional decree requires the parent, guardian, or**
33 **custodian to participate in a program of care, treatment, or**
34 **rehabilitation described in IC 31-34-20-3.**

35 **(b) If the court finds that a parent, guardian, or custodian**
36 **described in subsection (a) is not making consistent and timely**
37 **progress toward the goals set forth in the dispositional decree, the**
38 **department:**

39 **(1) may not return the child to the home of the parent,**
40 **guardian, or custodian, including for purposes of a trial home**
41 **visit; and**

42 **(2) may not allow the parent, guardian, or custodian in person**



1 contact with the child unless the contact is approved as being
2 in the child's best interest by:

3 (A) a court appointed special advocate or guardian ad
4 litem; and

5 (B) a marriage and family therapist licensed under
6 IC 25-23.6-8, if one is appointed for the child by the court;
7 until the court finds that the parent, guardian, or custodian is
8 making consistent and timely progress toward the goals set forth
9 in the dispositional decree.

10 SECTION 6. IC 31-34-21-5.3 IS ADDED TO THE INDIANA
11 CODE AS A NEW SECTION TO READ AS FOLLOWS
12 [EFFECTIVE JULY 1, 2023]: **Sec. 5.3. (a) This section applies if:**

13 (1) the dispositional decree for a child requires a parent,
14 guardian, or custodian of the child to participate in a program
15 of care, treatment, or rehabilitation described in
16 IC 31-34-20-3; and

17 (2) the court finds in a periodic case review conducted at least
18 twelve (12) months, but less than fifteen (15) months, after the
19 date of:

20 (A) the child's removal from the child's parent, guardian,
21 or custodian; or

22 (B) the child's dispositional decree;

23 whichever occurs earlier, that the parent, guardian, or
24 custodian has failed to make consistent and timely progress in
25 one (1) or more services that were ordered by the court in the
26 dispositional decree and that were made available to the
27 parent by the department.

28 (b) At the periodic case review described in subsection (a), the
29 court shall order:

30 (1) that the permanency plan for the child be changed to a
31 concurrent plan in which at least one (1) intended permanent
32 or long term arrangement for care and custody of the child is
33 not the return or continuation of custodial care of the child
34 with the child's parent, guardian, or custodian; or

35 (2) that the intended permanent or long term arrangement for
36 care and custody of the child be changed to placement of the
37 child for adoption.

38 SECTION 7. IC 31-34-21-5.4 IS ADDED TO THE INDIANA
39 CODE AS A NEW SECTION TO READ AS FOLLOWS
40 [EFFECTIVE JULY 1, 2023]: **Sec. 5.4. (a) At a periodic case review**
41 **conducted at least fifteen (15) months after the date of the child's**
42 **removal from the home of the child's parent, guardian, or**



1 **custodian or at least fifteen (15) months after the date of the child's**
 2 **dispositional decree, whichever occurs earlier, the court shall**
 3 **order:**

4 **(1) that the permanency plan for the child be changed to a**
 5 **concurrent plan in which at least one (1) intended permanent**
 6 **or long term arrangement for care and custody of the child is**
 7 **not the return or continuation of custodial care of the child**
 8 **with the child's parent, guardian, or custodian; or**

9 **(2) that the intended permanent or long term arrangement for**
 10 **care and custody of the child be changed to placement of the**
 11 **child for adoption.**

12 **(b) After a child's permanency plan is changed under this**
 13 **section, the intended permanent or long term arrangement for care**
 14 **and custody of the child may not be changed solely to the return or**
 15 **continuation of custodial care of the child with the child's parent,**
 16 **guardian, or custodian.**

17 SECTION 8. IC 31-34-21-5.6, AS AMENDED BY P.L.10-2019,
 18 SECTION 125, IS AMENDED TO READ AS FOLLOWS
 19 [EFFECTIVE JULY 1, 2023]: Sec. 5.6. (a) Except as provided in
 20 subsection (c), a court may make a finding described in this section at
 21 any phase of a child in need of services proceeding.

22 (b) Reasonable efforts to reunify a child with the child's parent,
 23 guardian, or custodian or preserve a child's family as described in
 24 section 5.5 of this chapter are not required if the court finds any of the
 25 following:

26 (1) A parent, guardian, or custodian of a child who is a child in
 27 need of services has been convicted of:

28 (A) an offense described in IC 31-35-3-4(1)(B) or
 29 IC 31-35-3-4(1)(D) through IC 31-35-3-4(1)(J) against a
 30 victim who is:

31 (i) a child described in IC 31-35-3-4(2); or

32 (ii) a parent of the child; or

33 (B) a comparable offense as described in clause (A) in any
 34 other state, territory, or country by a court of competent
 35 jurisdiction.

36 (2) A parent, guardian, or custodian of a child who is a child in
 37 need of services:

38 (A) has been convicted of:

39 (i) the murder (IC 35-42-1-1) or voluntary manslaughter (IC
 40 35-42-1-3) of a victim who is a child described in
 41 IC 31-35-3-4(2)(B) or a parent of the child; or

42 (ii) a comparable offense described in item (i) in any other



- 1 state, territory, or country; or
- 2 (B) has been convicted of:
- 3 (i) aiding, inducing, or causing another person;
- 4 (ii) attempting; or
- 5 (iii) conspiring with another person;
- 6 to commit an offense described in clause (A).
- 7 (3) A parent, guardian, or custodian of a child who is a child in
- 8 need of services has been convicted of:
- 9 (A) battery as a Class A felony (for a crime committed before
- 10 July 1, 2014) or Level 2 felony (for a crime committed after
- 11 June 30, 2014);
- 12 (B) battery as a Class B felony (for a crime committed before
- 13 July 1, 2014) or Level 3 or Level 4 felony (for a crime
- 14 committed after June 30, 2014);
- 15 (C) battery as a Class C felony (for a crime committed before
- 16 July 1, 2014) or Level 5 felony (for a crime committed after
- 17 June 30, 2014);
- 18 (D) aggravated battery (IC 35-42-2-1.5);
- 19 (E) criminal recklessness (IC 35-42-2-2) as a Class C felony
- 20 (for a crime committed before July 1, 2014) or a Level 5
- 21 felony (for a crime committed after June 30, 2014);
- 22 (F) neglect of a dependent (IC 35-46-1-4) as a Class B felony
- 23 (for a crime committed before July 1, 2014) or a Level 1 or
- 24 Level 3 felony (for a crime committed after June 30, 2014);
- 25 (G) promotion of human labor trafficking, promotion of human
- 26 sexual trafficking, promotion of child sexual trafficking,
- 27 promotion of sexual trafficking of a younger child, child
- 28 sexual trafficking, or human trafficking (IC 35-42-3.5-1
- 29 through IC 35-42-3.5-1.4) as a felony; or
- 30 (H) a comparable offense described in clauses (A) through (G)
- 31 under federal law or in another state, territory, or country;
- 32 against a child described in IC 31-35-3-4(2)(B).
- 33 (4) The parental rights of a parent with respect to a biological or
- 34 adoptive sibling of a child who is a child in need of services have
- 35 been involuntarily terminated by a court under:
- 36 (A) IC 31-35-2 (involuntary termination involving a
- 37 delinquent child or a child in need of services);
- 38 (B) IC 31-35-3 (involuntary termination involving an
- 39 individual convicted of a criminal offense); or
- 40 (C) any comparable law described in clause (A) or (B) in any
- 41 other state, territory, or country.
- 42 (5) The child is an abandoned infant, provided that the court:



- 1 (A) has appointed a guardian ad litem or court appointed
- 2 special advocate for the child; and
- 3 (B) after receiving a written report and recommendation from
- 4 the guardian ad litem or court appointed special advocate, and
- 5 after a hearing, finds that reasonable efforts to locate the
- 6 child's parents or reunify the child's family would not be in the
- 7 best interests of the child.
- 8 **(6) A parent, guardian, or custodian of a child who is a child**
- 9 **in need of services is required to register as a sex or violent**
- 10 **offender under IC 11-8-8.**
- 11 **(7) A parent, guardian, or custodian of a child who is a child**
- 12 **in need of services has, on two (2) or more occasions, been**
- 13 **found by a court to have:**
- 14 (A) placed the child at substantial risk of harm as a result
- 15 of the parent's, guardian's, or custodian's use of alcohol or
- 16 a controlled substance; and
- 17 (B) failed to successfully complete treatment that was
- 18 ordered by the court as a result of the court's finding
- 19 under clause (A).
- 20 **(8) A court has found that a parent, guardian, or custodian of**
- 21 **a child who is a child in need of services:**
- 22 (A) has a documented history of abuse of alcohol or a
- 23 controlled substance that has resulted in the parent,
- 24 guardian, or custodian being unable to adequately provide
- 25 for the child's physical and mental health and safety; and
- 26 (B) is not likely, within a reasonable amount of time, to
- 27 successfully cease abusing alcohol or the controlled
- 28 substance.
- 29 **(9) A parent, guardian, or custodian of a child who is a child**
- 30 **in need of services has failed, for more than six (6) months, to:**
- 31 (A) participate in a program of care, treatment, or
- 32 rehabilitation of the child as ordered by a court under
- 33 IC 31-34-20-3; or
- 34 (B) maintain contact with the child when the parent,
- 35 guardian, or custodian:
- 36 (i) was reasonably able to maintain contact with the
- 37 child; or
- 38 (ii) was provided with reasonable opportunities to have
- 39 contact with the child.
- 40 **(10) The child has been removed from a parent, guardian, or**
- 41 **custodian of the child and has been under the supervision of**
- 42 **the department or a county probation department for not less**



1 **than twelve (12) months of the most recent twenty-two (22)**
 2 **months, beginning with the date the child was removed from**
 3 **the home as a result of the child being alleged to be a child in**
 4 **need of services or delinquent child.**

5 (c) During or at any time after the first periodic case review under
 6 IC 31-34-21-2 of a child in need of services proceeding, if the court
 7 finds that a parent, guardian, or custodian of the child has been charged
 8 with an offense described in subsection (b)(3) and is awaiting trial, the
 9 court may make a finding that reasonable efforts to reunify the child
 10 with the child's parent, guardian, or custodian or preserve the child's
 11 family as described in section 5.5 of this chapter may be suspended
 12 pending the disposition of the parent's, guardian's, or custodian's
 13 criminal charge.

14 SECTION 9. IC 31-34-21-8.5 IS ADDED TO THE INDIANA
 15 CODE AS A NEW SECTION TO READ AS FOLLOWS
 16 [EFFECTIVE JULY 1, 2023]: **Sec. 8.5. (a) If:**

17 (1) **a dispositional decree requires a parent, guardian, or**
 18 **custodian to participate in a specified program or service as**
 19 **part of a program of care, treatment, or rehabilitation**
 20 **described in IC 31-34-20-3; and**

21 (2) **the parent, guardian, or custodian is involuntarily**
 22 **discharged three (3) or more times from the specified**
 23 **program or service by a provider of the program or service;**
 24 **the court may order the parent, guardian, or custodian to pay the**
 25 **cost of the parent's, guardian's, or custodian's subsequent**
 26 **participation in the program or service.**

27 (b) **If:**

28 (1) **a dispositional decree requires a parent, guardian, or**
 29 **custodian to submit to drug testing; and**

30 (2) **the parent, guardian, or custodian:**

31 (A) **tests positive for a controlled substance; or**

32 (B) **fails to submit to a required drug test;**

33 **three (3) or more times;**

34 **the court may order the parent, guardian, or custodian to pay the**
 35 **cost of any subsequent drug testing to which the parent, guardian,**
 36 **or custodian is required to submit under the dispositional decree.**

37 SECTION 10. IC 31-35-2-3.5 IS ADDED TO THE INDIANA
 38 CODE AS A NEW SECTION TO READ AS FOLLOWS
 39 [EFFECTIVE JULY 1, 2023]: **Sec. 3.5. (a) This section applies to a**
 40 **parent who:**

41 (1) **is required to participate in a program of care, treatment,**
 42 **or rehabilitation by a dispositional decree under**



1 **IC 31-34-20-3; and**

2 **(2) either:**

3 **(A) is provided with services under the program of care,**
 4 **treatment, or rehabilitation for not less than six (6)**
 5 **months; or**

6 **(B) is involuntarily discharged three (3) or more times**
 7 **from a program or service in which the parent is required**
 8 **to participate as part of the program of care, treatment, or**
 9 **rehabilitation.**

10 **(b) The consent of a parent described in subsection (a) to**
 11 **terminate the parent's parent-child relationship with respect to a**
 12 **child is implied without further action by the court if any of the**
 13 **following apply:**

14 **(1) Both of the following apply:**

15 **(A) At the time a petition is filed to terminate the parent's**
 16 **parent-child relationship with respect to the child under**
 17 **section 4 of this chapter, the parent has been convicted of**
 18 **and is incarcerated for one (1) or more of the following**
 19 **offenses:**

20 **(i) A violent offense (as defined by IC 11-12-3.7-6).**

21 **(ii) Causing suicide (IC 35-42-1-2).**

22 **(iii) Strangulation (IC 35-42-2-9).**

23 **(B) The court determines, after notice to the parent and a**
 24 **hearing, that dispensing with the parent's consent is in the**
 25 **child's best interests.**

26 **(2) Both of the following apply:**

27 **(A) At the time a petition is filed to terminate the parent's**
 28 **parent-child relationship with respect to the child under**
 29 **section 4 of this chapter, the parent has been convicted of**
 30 **and is incarcerated for one (1) or more of the following**
 31 **offenses, the victim of which was the child or the child's**
 32 **sibling, half-blood sibling, or stepsibling of the parent's**
 33 **current marriage:**

34 **(i) A violent offense (as defined by IC 11-12-3.7-6).**

35 **(ii) Causing suicide (IC 35-42-1-2).**

36 **(iii) Strangulation (IC 35-42-2-9).**

37 **(iv) Criminal deviate conduct (IC 35-42-4-2, before its**
 38 **repeal).**

39 **(v) Neglect of a dependent (IC 35-46-1-4) as a Class B**
 40 **felony (for a crime committed before July 1, 2014) or as**
 41 **a Level 1 or Level 3 felony (for a crime committed after**
 42 **June 30, 2014).**



(vi) Battery (IC 35-42-2-1) as a Level 4 felony.

(vii) Domestic battery (IC 35-42-2-1.3) as a Level 4 felony.

(B) The court determines, after notice to the parent and a hearing, that dispensing with the parent's consent is in the child's best interests.

(3) The court finds that the parent abandoned the child for at least six (6) months immediately preceding the date on which a petition is filed to terminate the parent's parent-child relationship with respect to the child under section 4 of this chapter. For purposes of this subdivision, the court may find the parent to have abandoned the child if the parent has made only token efforts to support or communicate with the child.

(4) The child is in the custody of another person and the court finds that the parent:

(A) failed without justifiable cause to communicate significantly with the child when able to do so; or

(B) knowingly failed to provide for the care and support of the child when able to do so as required by law or judicial decree;

for a period of at least one (1) year.

(5) The child was born out of wedlock, the parent is the child's biological father, and:

(A) the parent's paternity has not been established:

(i) by a court proceeding other than an adoption proceeding under IC 31-19; or

(ii) by the parent's execution of a paternity affidavit under IC 16-37-2-2.1;

(B) the parent's paternity has been established after the filing of a petition for adoption in a court proceeding or by the parent's execution of a paternity affidavit under IC 16-37-2-2.1, but the parent:

(i) is required to register with the putative father registry established by IC 31-19-5; and

(ii) fails to register within the period described in IC 31-19-5-12; or

(C) the child was conceived as a result of:

(i) a rape for which the parent was convicted under IC 35-42-4-1;

(ii) child molesting (IC 35-42-4-3);

(iii) sexual misconduct with a minor (IC 35-42-4-9); or

(iv) incest (IC 35-46-1-3).



1 **(6) The parent is the child's biological father and denies**
 2 **paternity of the child before or after the birth of the child, if**
 3 **the denial of paternity:**

4 **(A) is in writing;**

5 **(B) is signed by the parent in the presence of a notary**
 6 **public; and**

7 **(C) contains an acknowledgment that:**

8 **(i) the denial of paternity is irrevocable; and**

9 **(ii) the parent will not receive notice of proceedings to**
 10 **terminate the parent's parent-child relationship with**
 11 **respect to the child.**

12 **(7) The parent is the child's putative father and:**

13 **(A) the parent files a paternity action under IC 31-14 or in**
 14 **any other jurisdiction and fails to establish paternity in the**
 15 **action;**

16 **(B) the parent:**

17 **(i) is required to register with the putative father registry**
 18 **established by IC 31-19-5; and**

19 **(ii) fails to register within the period described in**
 20 **IC 31-19-5-12;**

21 **(C) the parent:**

22 **(i) is sent notice of a hearing under section 6.5 of this**
 23 **chapter; and**

24 **(ii) does not appear at the hearing or submit a written**
 25 **statement to the court as permitted under section 6.5(e)**
 26 **of this chapter; or**

27 **(D) the parent's consent to the termination is implied**
 28 **under IC 31-35-1-4.5.**

29 **(8) The parent relinquished consent to the child's adoption as**
 30 **provided in IC 31-19-9.**

31 **(9) The parent has been judicially declared incompetent or**
 32 **mentally defective and the court dispenses with the parent's**
 33 **consent to the termination.**

34 **(10) The petitioner under section 4 of this chapter proves by**
 35 **clear and convincing evidence that the parent is unfit to be a**
 36 **parent, and the court finds that the best interests of the child**
 37 **would be served if the court dispenses with the parent's**
 38 **consent.**

39 **(11) The parent will be incarcerated for the majority of the**
 40 **period during which the child is less than eighteen (18) years**
 41 **of age.**

42 **SECTION 11. IC 31-35-2-4, AS AMENDED BY P.L.258-2019,**



SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 4. (a) A petition to terminate the parent-child relationship involving a delinquent child or a child in need of services may be signed and filed with the juvenile or probate court by any of the following:

- (1) The attorney for the department.
- (2) The child's court appointed special advocate.
- (3) The child's guardian ad litem.

(b) ~~The A petition filed under subsection (a) must meet the following requirements:~~

~~(1) The petition~~ must be entitled "In the Matter of the Termination of the Parent-Child Relationship of _____, a child, and _____, the child's parent (or parents)".

~~(2) (c) The A petition filed under subsection (a) must allege one (1) of the following:~~

~~(A) (1) That all of the following apply:~~

~~(A) One (1) of the following is true:~~

~~(i) The child has been removed from the parent for at least six (6) months under a dispositional decree.~~

~~(ii) A court has entered a finding under IC 31-34-21-5.6 that reasonable efforts for family preservation or reunification are not required including a description of the court's finding, the date of the finding, and the manner in which the finding was made.~~

~~(iii) The child has been removed from the parent and has been under the supervision of a local office or probation department for at least fifteen (15) months of the most recent twenty-two (22) months, beginning with the date the child is removed from the home as a result of the child being alleged to be a child in need of services or a delinquent child.~~

~~(B) that One (1) of the following is true:~~

~~(i) There is a reasonable probability that the conditions that resulted in the child's removal or the reasons for placement outside the home of the parents will not be remedied.~~

~~(ii) There is a reasonable probability that the continuation of the parent-child relationship poses a threat to the well-being of the child.~~

~~(iii) The child has, on two (2) separate occasions, been adjudicated a child in need of services;~~

~~(iii) A court has found that the parent's consent to termination of the parent-child relationship is implied~~



under section 3.5 of this chapter.

(iv) A court has found that the parent has failed to make consistent and timely progress in one (1) or more services that were ordered by the court in the dispositional decree and were made available to the parent by the department.

~~(C)~~ that termination is in the best interests of the child; and
~~(D)~~ that (C) There is a satisfactory plan for the care and treatment of the child that is in the child's best interests. If the intended permanent or long term arrangement for care and custody of the child under the child's permanency plan is placement of the child for adoption, a specific adoptive home need not have been identified in order for the plan to be satisfactory or in the child's best interests for purposes of this clause.

(2) That the child was:

(A) taken into custody under IC 31-34-2; and

(B) adjudicated a child in need of services;

on two (2) separate occasions in a two (2) year period.

~~(3)~~ (d) If the department intends to file a motion to dismiss under section 4.5 of this chapter, the petition must indicate whether at least one (1) of the factors listed in section 4.5(d)(1) through 4.5(d)(4) of this chapter applies and specify each factor that would apply as the basis for filing a motion to dismiss the petition.

~~(e)~~ (e) At the time the petitioner files ~~the verified~~ a petition described in subsection ~~(b)~~ under this section with the juvenile or probate court, the petitioner shall also file a:

(1) copy of the order approving the permanency plan under IC 31-34-21-7 for the child; or

(2) permanency plan for the child as described by IC 31-34-21-7.5.

SECTION 12. IC 31-35-2-4.5, AS AMENDED BY P.L.156-2020, SECTION 120, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 4.5. (a) This section applies if:

(1) a court has made a finding under IC 31-34-21-5.6 that reasonable efforts for family preservation or reunification with respect to a child in need of services are not required; ~~or~~

(2) a child in need of services or a delinquent child:

(A) has been placed in:

(i) a foster family home, child caring institution, or group home licensed under IC 31-27; or

(ii) the home of a relative (as defined in IC 31-9-2-107(c));



as directed by a court in a child in need of services proceeding under IC 31-34 or a delinquency action under IC 31-37; and (B) has been removed from a parent and has been under the supervision of the department or county probation department for not less than fifteen (15) months of the most recent twenty-two (22) months, beginning with the date the child is removed from the home as a result of the child being alleged to be a child in need of services or a delinquent child; or

(3) a child is:

(A) taken into custody under IC 31-34-2; and

(B) adjudicated a child in need of services;

on two (2) separate occasions in a two (2) year period.

(b) A person described in section 4(a) of this chapter shall:

(1) file a petition to terminate the parent-child relationship under section 4 of this chapter; and

(2) request that the petition be set for hearing.

(c) If a petition under subsection (b) is filed by the child's court appointed special advocate or guardian ad litem, the department shall be joined as a party to the petition.

(d) A person described in section 4(a) of this chapter may file a motion to dismiss the petition to terminate the parent-child relationship if any of the following circumstances apply:

(1) That the current case plan prepared by or under the supervision of the department or the probation department under IC 31-34-15, IC 31-37-19-1.5, or IC 31-37-22-4.5 has documented a compelling reason, based on facts and circumstances stated in the petition or motion, for concluding that filing, or proceeding to a final determination of, a petition to terminate the parent-child relationship is not in the best interests of the child. A compelling reason may include the fact that the child is being cared for by a custodian who is a relative (as defined in IC 31-9-2-107(c)).

(2) That:

(A) IC 31-34-21-5.6 is not applicable to the child;

(B) the department or the probation department has not provided family services to the child, parent, or family of the child in accordance with a currently effective case plan prepared under IC 31-34-15 or IC 31-37-19-1.5 or a permanency plan or dispositional decree approved under IC 31-34 or IC 31-37, for the purpose of permitting and facilitating safe return of the child to the child's home; and

(C) the period for completion of the program of family



services, as specified in the current case plan, permanency plan, or decree, has not expired.

(3) That:

(A) IC 31-34-21-5.6 is not applicable to the child;

(B) the department has not provided family services to the child, parent, or family of the child, in accordance with applicable provisions of a currently effective case plan prepared under IC 31-34-15 or IC 31-37-19-1.5, or a permanency plan or dispositional decree approved under IC 31-34 or IC 31-37; and

(C) the services that the department has not provided are substantial and material in relation to implementation of a plan to permit safe return of the child to the child's home.

(4) Subject to subsection (f), that:

(A) the parent is incarcerated or the parent's prior incarceration is a significant factor in the child having been under the supervision of the department or a county probation department for at least fifteen (15) of the most recent twenty-two (22) months;

(B) the parent maintains a meaningful role in the child's life; and

(C) the department has not documented a reason to conclude that it would otherwise be in the child's best interests to terminate the parent-child relationship.

The motion to dismiss shall specify which of the allegations described in subdivisions (1) through (4) apply to the motion. If the court finds that any of the allegations described in subdivisions (1) through (4) are true, as established by a preponderance of the evidence, the court shall dismiss the petition to terminate the parent-child relationship. In determining whether to dismiss a petition to terminate a parent-child relationship pursuant to a motion to dismiss that specifies allegations described in subdivision (4), the court may consider the length of time remaining in the incarcerated parent's sentence and any other factor the court considers relevant.

(e) If:

(1) a child in need of services or a delinquent child has been removed from a parent and has been under the supervision of the department or county probation department for not less than fifteen (15) months of the most recent twenty-two (22) months, beginning with the date the child is removed from the home as a result of the child being alleged to be a child in need of services or a delinquent child; and



(2) a petition to terminate the parent-child relationship has not been filed by the department or another person described in section 4(a) of this chapter;

a foster parent, relative of the child, or de facto custodian with whom the child has been placed for at least six (6) months may file a notice with the court that the petition to terminate the parent-child relationship has not been filed as required under subsection (b). Upon the filing of the notice, if the petition to terminate the parent-child relationship has not been filed, the court shall schedule a hearing within thirty (30) days.

(f) Subsection (d)(4) does not apply if the person was incarcerated for any of the following:

(1) A crime described in IC 31-35-3-4.

(2) A crime of child abuse (as defined in IC 5-2-22-1).

(3) Neglect of a dependent (IC 35-46-1-4) if:

(A) the incarceration was for neglect of a dependent as a Level 5 or above felony; and

(B) the dependent would be the subject of the petition to terminate the parent-child relationship.

SECTION 13. IC 31-35-2-8, AS AMENDED BY P.L.128-2012, SECTION 173, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 8. (a) Except as provided in section 4.5(d) of this chapter, if the court finds that the allegations in a petition described in section 4 **4(c)(1)** of this chapter are true, the court shall terminate the parent-child relationship. **If the court finds that the allegation in a petition described in section 4(c)(2) of this chapter is true, the court shall terminate the parent-child relationship.**

(b) If the court does not find that the allegations in the petition are true, the court shall dismiss the petition.

(c) The court shall enter findings of fact that support the entry of the conclusions required by subsections (a) and (b).

