



February 19, 2019

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## HOUSE BILL No. 1198

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DIGEST OF HB 1198 (Updated February 19, 2019 8:56 am - DI 133)

**Citations Affected:** IC 10-13; IC 31-9; IC 31-19; IC 31-34; IC 31-37; IC 36-1.

**Synopsis:** Department of child services matters. Defines "child", for purposes of provisions regarding the filing of a petition to terminate a parent-child relationship involving a delinquent child or a child in need of services, as an individual who is: (1) less than 18 years of age; and (2) a delinquent child or a child in need of services. Updates the list of nonwaivable offenses under juvenile law in accordance with requirements for reimbursement under related federal programs. Adds department of child services employees to the list of individuals who may request that a county, municipality, or township restrict access to the individual's home address on a public property data base operated by the county, municipality, or township.

**Effective:** July 1, 2019.

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### Frizzell

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January 10, 2019, read first time and referred to Committee on Family, Children and Human Affairs.  
February 19, 2019, reported — Do Pass.

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HB 1198—LS 6691/DI 119





February 19, 2019

First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

## HOUSE BILL No. 1198

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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 10-13-3-39, AS AMENDED BY P.L.183-2017,  
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2019]: Sec. 39. (a) The department is designated as the  
4 authorized agency to receive requests for, process, and disseminate the  
5 results of national criminal history background checks that comply with  
6 this section and 42 U.S.C. 5119a.  
7 (b) A qualified entity may contact the department to request a  
8 national criminal history background check on any of the following  
9 persons:  
10 (1) A person who seeks to be or is employed with the qualified  
11 entity. A request under this subdivision must be made not later  
12 than three (3) months after the person is initially employed by the  
13 qualified entity.  
14 (2) A person who seeks to volunteer or is a volunteer with the  
15 qualified entity. A request under this subdivision must be made  
16 not later than three (3) months after the person initially volunteers  
17 with the qualified entity.

HB 1198—LS 6691/DI 119



- 1 (3) A person for whom a national criminal history background  
 2 check is required under any law relating to the licensing of a  
 3 home, center, or other facility for purposes of day care or  
 4 residential care of children.
- 5 (4) A person for whom a national criminal history background  
 6 check is permitted for purposes of:
- 7 (A) placement of a child in a foster family home, a prospective  
 8 adoptive home, or the home of a relative, legal guardian to  
 9 whom IC 29-3-8-9 applies, or other caretaker under section  
 10 27.5 of this chapter or IC 31-34;
- 11 (B) a report concerning an adoption as required by IC 31-19-8;
- 12 (C) collaborative care host homes and supervised independent  
 13 living arrangements as provided in IC 31-28-5.8-5.5; or
- 14 (D) reunification of a child with a parent, guardian, or  
 15 custodian as provided in IC 31-34-21-5.5.
- 16 (5) A person for whom a national criminal history background  
 17 check is required for the licensing of a group home, child caring  
 18 institution, child placing agency, or foster home under IC 31-27.
- 19 (6) A person for whom a national criminal history background  
 20 check is required for determining the individual's suitability as an  
 21 employee of a contractor of the state under section 38.5(a)(1) of  
 22 this chapter.
- 23 (c) A qualified entity must submit a request under subsection (b) in  
 24 the form required by the department and provide a set of the person's  
 25 fingerprints and any required fees with the request.
- 26 (d) If a qualified entity makes a request in conformity with  
 27 subsection (b), the department shall submit the set of fingerprints  
 28 provided with the request to the Federal Bureau of Investigation for a  
 29 national criminal history background check. The department shall  
 30 respond to the request in conformity with:
- 31 (1) the requirements of 42 U.S.C. 5119a; and
- 32 (2) the regulations prescribed by the Attorney General of the  
 33 United States under 42 U.S.C. 5119a.
- 34 (e) Subsection (f):
- 35 (1) applies to a qualified entity that:
- 36 (A) is not a school corporation or a special education  
 37 cooperative; or
- 38 (B) is a school corporation or a special education cooperative  
 39 and seeks a national criminal history background check for a  
 40 volunteer; and
- 41 (2) does not apply to a qualified entity that is a:
- 42 (A) home health agency licensed under IC 16-27-1; or



- 1 (B) personal services agency licensed under IC 16-27-4.
- 2 (f) After receiving the results of a national criminal history  
3 background check from the Federal Bureau of Investigation, the  
4 department shall make a determination whether the person who is the  
5 subject of a request has been convicted of:
- 6 (1) an offense described in IC 20-26-5-11;  
7 (2) in the case of a foster family home, a nonwaivable offense as  
8 defined in IC 31-9-2-84.8;  
9 (3) in the case of a prospective adoptive home, ~~an offense~~  
10 ~~described in IC 31-19-11-1(c);~~ **a nonwaivable offense under**  
11 **IC 31-9-2-84.8;**  
12 (4) any other felony; or  
13 (5) any misdemeanor;
- 14 and convey the determination to the requesting qualified entity.
- 15 (g) This subsection applies to a qualified entity that:
- 16 (1) is a school corporation or a special education cooperative; and  
17 (2) seeks a national criminal history background check to  
18 determine whether to employ or continue the employment of a  
19 certificated employee or a noncertificated employee of a school  
20 corporation or an equivalent position with a special education  
21 cooperative.
- 22 After receiving the results of a national criminal history background  
23 check from the Federal Bureau of Investigation, the department may  
24 exchange identification records concerning convictions for offenses  
25 described in IC 20-26-5-11 with the school corporation or special  
26 education cooperative solely for purposes of making an employment  
27 determination. The exchange may be made only for the official use of  
28 the officials with authority to make the employment determination. The  
29 exchange is subject to the restrictions on dissemination imposed under  
30 P.L.92-544, (86 Stat. 1115) (1972).
- 31 (h) This subsection applies to a qualified entity (as defined in  
32 IC 10-13-3-16) that is a public agency under IC 5-14-1.5-2(a)(1). After  
33 receiving the results of a national criminal history background check  
34 from the Federal Bureau of Investigation, the department shall provide  
35 a copy to the public agency. Except as permitted by federal law, the  
36 public agency may not share the information contained in the national  
37 criminal history background check with a private agency.
- 38 (i) This subsection applies to a qualified entity that is a:
- 39 (1) home health agency licensed under IC 16-27-1; or  
40 (2) personal services agency licensed under IC 16-27-4.
- 41 After receiving the results of a national criminal history background  
42 check from the Federal Bureau of Investigation, the department shall



1 make a determination whether the applicant has been convicted of an  
 2 offense described in IC 16-27-2-5(a) and convey the determination to  
 3 the requesting qualified entity.

4 (j) The department:

5 (1) may permanently retain an applicant's fingerprints submitted  
 6 under this section; and

7 (2) shall retain the applicant's fingerprints separately from  
 8 fingerprints collected under section 24 of this chapter.

9 SECTION 2. IC 31-9-2-13, AS AMENDED BY P.L.206-2015,  
 10 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 11 JULY 1, 2019]: Sec. 13. (a) "Child", for purposes of IC 31-15, IC 31-16  
 12 (excluding IC 31-16-12.5), and IC 31-17, means a child or children of  
 13 both parties to the marriage. The term includes the following:

14 (1) Children born out of wedlock to the parties.

15 (2) Children born or adopted during the marriage of the parties.

16 (b) "Child", for purposes of the Uniform Interstate Family Support  
 17 Act under IC 31-18.5, has the meaning set forth in IC 31-18.5-1-2.

18 (c) "Child", for purposes of IC 31-19-5, includes an unborn child.

19 (d) Except as otherwise provided in this section, "child", for  
 20 purposes of the juvenile law and IC 31-27, means:

21 (1) a person who is less than eighteen (18) years of age;

22 (2) a person:

23 (A) who is eighteen (18), nineteen (19), or twenty (20) years  
 24 of age; and

25 (B) who either:

26 (i) is charged with a delinquent act committed before the  
 27 person's eighteenth birthday; or

28 (ii) has been adjudicated a child in need of services before  
 29 the person's eighteenth birthday; or

30 (3) a person:

31 (A) who is alleged to have committed an act that would have  
 32 been murder if committed by an adult;

33 (B) who was less than eighteen (18) years of age at the time of  
 34 the alleged act; and

35 (C) who is less than twenty-one (21) years of age.

36 (e) "Child", for purposes of IC 31-36-3, means a person who is less  
 37 than eighteen (18) years of age.

38 (f) "Child", for purposes of the Interstate Compact on Juveniles  
 39 under IC 31-37-23-1, has the meaning set forth in IC 31-37-23-1.

40 (g) "Child", for purposes of IC 31-16-12.5, means an individual to  
 41 whom child support is owed under:

42 (1) a child support order issued under IC 31-14-10 or IC 31-16-6;



- 1 or  
 2 (2) any other child support order that is enforceable under  
 3 IC 31-16-12.5.  
 4 (h) "Child", for purposes of IC 31-32-5, means an individual who is  
 5 less than eighteen (18) years of age.  
 6 (i) "Child", for purposes of the Uniform Child Custody Jurisdiction  
 7 Act under IC 31-21, has the meaning set forth in IC 31-21-2-3.  
 8 **(j) "Child", for purposes of IC 31-35-2-4.5, means an individual**  
 9 **who is:**  
 10 **(1) less than eighteen (18) years of age; and**  
 11 **(2) a delinquent child or a child in need of services.**  
 12 SECTION 3. IC 31-9-2-84.8, AS ADDED BY P.L.183-2017,  
 13 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 14 JULY 1, 2019]: Sec. 84.8. "Nonwaivable offense", for purposes of this  
 15 title, means a conviction of any of the following felonies:  
 16 (1) Murder (IC 35-42-1-1).  
 17 (2) Causing suicide (IC 35-42-1-2).  
 18 (3) Assisting suicide (IC 35-42-1-2.5).  
 19 (4) Voluntary manslaughter (IC 35-42-1-3).  
 20 **(5) Involuntary manslaughter (IC 35-42-1-4) within the past**  
 21 **five (5) years.**  
 22 ~~(5)~~ **(6) Reckless homicide (IC 35-42-1-5).**  
 23 **(7) Feticide (IC 35-42-1-6).**  
 24 ~~(6)~~ **(8) Battery (IC 35-42-2-1) within the past five (5) years.**  
 25 ~~(7)~~ **(9) Domestic battery (IC 35-42-2-1.3).**  
 26 ~~(8)~~ **(10) Aggravated battery (IC 35-42-2-1.5).**  
 27 **(11) Criminal recklessness (IC 35-42-2-2) within the past five**  
 28 **(5) years.**  
 29 **(12) Strangulation (IC 35-42-2-9) within the past five (5)**  
 30 **years.**  
 31 ~~(9)~~ **(13) Kidnapping (IC 35-42-3-2).**  
 32 ~~(10)~~ **(14) Criminal confinement (IC 35-42-3-3) within the past**  
 33 **five (5) years.**  
 34 ~~(11)~~ **(15) Human and sexual trafficking (IC 35-42-3.5).**  
 35 ~~(12)~~ **(16) A felony sex offense under IC 35-42-4.**  
 36 ~~(13)~~ **Carjacking (~~IC 35-42-5-2~~) (repealed) within the past five (5)**  
 37 **years.**  
 38 ~~(14)~~ **(17) Arson (IC 35-43-1-1) within the past five (5) years.**  
 39 ~~(15)~~ **(18) Incest (IC 35-46-1-3).**  
 40 ~~(16)~~ **(19) Neglect of a dependent (~~IC 35-46-1-4(a)(1) and~~**  
 41 **~~IC 35-46-1-4(a)(2)). (IC 35-46-1-4(b)).~~**  
 42 ~~(17)~~ **(20) Child selling (IC 35-46-1-4(d)).**



- 1           **(21) Reckless supervision (IC 35-46-1-4.1).**  
 2           **(22) Nonsupport of a dependent child (IC 35-46-1-5) within**  
 3           **the past five (5) years.**  
 4           **(23) Operating a motorboat while intoxicated (IC 35-46-9-6)**  
 5           **within the past five (5) years.**  
 6           ~~(18)~~ **(24)** A felony involving a weapon under IC 35-47 or  
 7           ~~IC 35-47.5~~ within the past five (5) years.  
 8           ~~(19)~~ **(25)** A felony relating to controlled substances under  
 9           IC 35-48-4 within the past five (5) years.  
 10           ~~(20)~~ **(26)** An offense relating to material or a performance that is  
 11           harmful to minors or obscene under IC 35-49-3.  
 12           ~~(21)~~ **(27)** A felony under IC 9-30-5 within the past five (5) years.  
 13           **(28) A felony related to the health or safety of a child (as**  
 14           **defined in IC 31-9-2-13(h)) or an endangered adult (as defined**  
 15           **in IC 12-10-3-2).**  
 16           **(29) Attempt (IC 35-41-5-1) to commit a felony listed in**  
 17           **subdivisions (1) through (28).**  
 18           ~~(22)~~ **(30)** A felony that is substantially equivalent to a felony  
 19           listed in subdivisions (1) through ~~(21)~~ **(29)** for which the  
 20           conviction was entered in another state.  
 21           SECTION 4. IC 31-19-11-1, AS AMENDED BY P.L.158-2013,  
 22           SECTION 311, IS AMENDED TO READ AS FOLLOWS  
 23           [EFFECTIVE JULY 1, 2019]: Sec. 1. (a) Whenever the court has heard  
 24           the evidence and finds that:  
 25           (1) the adoption requested is in the best interest of the child;  
 26           (2) the petitioner or petitioners for adoption are of sufficient  
 27           ability to rear the child and furnish suitable support and  
 28           education;  
 29           (3) the report of the investigation and recommendation under  
 30           IC 31-19-8-5 has been filed;  
 31           (4) the attorney or agency arranging an adoption has filed with the  
 32           court an affidavit prepared by the state department of health under  
 33           IC 31-19-5-16 indicating whether a man is entitled to notice of the  
 34           adoption because the man has registered with the putative father  
 35           registry in accordance with IC 31-19-5;  
 36           (5) proper notice arising under subdivision (4), if notice is  
 37           necessary, of the adoption has been given;  
 38           (6) the attorney or agency has filed with the court an affidavit  
 39           prepared by the state department of health under:  
 40           (A) IC 31-19-6 indicating whether a record of a paternity  
 41           determination; or  
 42           (B) IC 16-37-2-2(g) indicating whether a paternity affidavit





1           executed under IC 16-37-2-2.1;  
 2           has been filed in relation to the child;  
 3           (7) proper consent, if consent is necessary, to the adoption has  
 4           been given;  
 5           (8) the petitioner for adoption is not prohibited from adopting the  
 6           child as the result of an inappropriate criminal history described  
 7           in subsection (c) or (d); and  
 8           (9) the person, licensed child placing agency, or local office that  
 9           has placed the child for adoption has provided the documents and  
 10          other information required under IC 31-19-17 to the prospective  
 11          adoptive parents;  
 12          the court shall grant the petition for adoption and enter an adoption  
 13          decree.

14          (b) A court may not grant an adoption unless the state department  
 15          of health's affidavit under IC 31-19-5-16 is filed with the court as  
 16          provided under subsection (a)(4).

17          (c) A juvenile adjudication for an act listed in ~~subdivisions (1)~~  
 18          ~~through (21) IC 31-9-2-84.8~~ that would be a felony if committed by an  
 19          adult, a conviction of a misdemeanor related to the health and safety of  
 20          a child, or a conviction of a felony not listed in ~~subdivisions (1) through~~  
 21          ~~(21) IC 31-9-2-84.8~~ by a petitioner for adoption **or household**  
 22          **member** is a permissible basis for the court to deny the petition for  
 23          adoption. In addition, the court may not grant an adoption if a petitioner  
 24          for adoption has been convicted of ~~any of the felonies described as~~  
 25          **follows: a nonwaivable offense under IC 31-9-2-84.8.**

- 26           (1) ~~Murder (IC 35-42-1-1).~~  
 27           (2) ~~Causing suicide (IC 35-42-1-2).~~  
 28           (3) ~~Assisting suicide (IC 35-42-1-2.5).~~  
 29           (4) ~~Voluntary manslaughter (IC 35-42-1-3).~~  
 30           (5) ~~Reckless homicide (IC 35-42-1-5).~~  
 31           (6) ~~Battery as a felony (IC 35-42-2-1).~~  
 32           (7) ~~Domestic battery (IC 35-42-2-1.3).~~  
 33           (8) ~~Aggravated battery (IC 35-42-2-1.5).~~  
 34           (9) ~~Kidnapping (IC 35-42-3-2).~~  
 35           (10) ~~Criminal confinement (IC 35-42-3-3).~~  
 36           (11) ~~A felony sex offense under IC 35-42-4.~~  
 37           (12) ~~Carjacking (IC 35-42-5-2) (repealed).~~  
 38           (13) ~~Arson (IC 35-43-1-1).~~  
 39           (14) ~~Incest (IC 35-46-1-3).~~  
 40           (15) ~~Neglect of a dependent (IC 35-46-1-4(a)(1) and~~  
 41           ~~IC 35-46-1-4(a)(2)).~~  
 42           (16) ~~Child selling (IC 35-46-1-4(d)).~~



1 (17) A felony involving a weapon under IC 35-47 or IC 35-47.5.

2 (18) A felony relating to controlled substances under IC 35-48-4.

3 (19) An offense relating to material or a performance that is  
4 harmful to minors or obscene under IC 35-49-3.

5 (20) A felony under IC 9-30-5.

6 (21) A felony under the laws of another jurisdiction, including a  
7 military court, that is substantially equivalent to any of the  
8 offenses listed in subdivisions (1) through (20).

9 However, the court is not prohibited from granting an adoption based  
10 upon a felony conviction under subdivision (6); (10); (12); (13); (17);  
11 (18); or (20) or its equivalent under subdivision (21); for:

12 (1) a felony under IC 9-30-5;

13 (2) involuntary manslaughter (IC 35-42-1-4);

14 (3) battery (IC 35-42-2-1);

15 (4) criminal recklessness (IC 35-42-2-2) as a felony;

16 (5) strangulation (IC 35-42-2-9);

17 (6) criminal confinement (IC 35-42-3-3);

18 (7) arson (IC 35-43-1-1);

19 (8) nonsupport of a dependent child (IC 35-46-1-5);

20 (9) operating a motorboat while intoxicated (IC 35-46-9-6) as  
21 a felony;

22 (10) a felony involving a weapon under IC 35-47;

23 (11) a felony relating to controlled substances under  
24 IC 35-48-4; or

25 (12) a felony that is substantially equivalent to a felony listed  
26 in this section for which the conviction was entered in another  
27 jurisdiction;

28 if the date of the conviction did not occur within the immediately  
29 preceding five (5) year period.

30 (d) A court may not grant an adoption if the petitioner is a sex or  
31 violent offender (as defined in IC 11-8-8-5) or a sexually violent  
32 predator (as defined in IC 35-38-1-7.5).

33 SECTION 5. IC 31-34-4-2, AS AMENDED BY P.L.183-2017,  
34 SECTION 42, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
35 JULY 1, 2019]: Sec. 2. (a) If a child alleged to be a child in need of  
36 services is taken into custody under an order of the court under this  
37 chapter and the court orders out-of-home placement, the department is  
38 responsible for that placement and care and must consider placing the  
39 child with a:

40 (1) suitable and willing relative; or

41 (2) de facto custodian;

42 before considering any other out-of-home placement.



1 (b) The department shall consider placing a child described in  
 2 subsection (a) with a relative related by blood, marriage, or adoption  
 3 before considering any other placement of the child.

4 (c) Before the department places a child in need of services with a  
 5 relative or a de facto custodian, the department shall complete an  
 6 evaluation based on a home visit of the relative's home.

7 (d) Except as provided in subsection (f), before placing a child in  
 8 need of services in an out-of-home placement, the department shall  
 9 conduct a criminal history check of each person who is currently  
 10 residing in the location designated as the out-of-home placement.

11 (e) Except as provided in subsection (g), the department may not  
 12 make an out-of-home placement if a person described in subsection (d)  
 13 has:

14 (1) committed an act resulting in a substantiated report of child  
 15 abuse or neglect; or

16 (2) been convicted of a nonwaivable offense, as defined in  
 17 IC 31-9-2-84.8 or had a juvenile adjudication for an act that  
 18 would be a nonwaivable offense, as defined in IC 31-9-2-84.8 if  
 19 committed by an adult.

20 (f) The department is not required to conduct a criminal history  
 21 check under subsection (d) if the department makes an out-of-home  
 22 placement to an entity or a facility that is not a residence (as defined in  
 23 IC 3-5-2-42.5) or that is licensed by the state.

24 (g) A court may order or the department may approve an  
 25 out-of-home placement if:

26 (1) a person described in subsection (d) has:

27 (A) committed an act resulting in a substantiated report of  
 28 child abuse or neglect;

29 (B) been convicted of:

30 **(i) involuntary manslaughter (IC 35-42-1-4);**

31 ~~(i)~~ **(ii) battery (IC 35-42-2-1);**

32 **(iii) criminal recklessness (IC 35-42-2-2) as a felony;**

33 **(iv) strangulation (IC 35-42-2-9);**

34 ~~(ii)~~ **(v) criminal confinement (IC 35-42-3-3) as a felony;**

35 ~~(iii)~~ **carjacking (IC 35-42-5-2) (repealed) as a felony;**

36 ~~(iv)~~ **(vi) arson (IC 35-43-1-1) as a felony;**

37 **(vii) nonsupport of a dependent child (IC 35-46-1-5);**

38 **(viii) operating a motorboat while intoxicated**  
 39 **(IC 35-46-9-6) as a felony;**

40 ~~(v)~~ **(ix) a felony involving a weapon under IC 35-47; or**  
 41 ~~IC 35-47.5;~~

42 ~~(vi)~~ **(x) a felony relating to controlled substances under**



- 1 IC 35-48-4;
- 2 ~~(vii)~~ (xi) a felony under IC 9-30-5; or
- 3 ~~(viii)~~ (xii) a felony that is substantially equivalent to a felony
- 4 listed in this clause for which the conviction was entered in
- 5 another jurisdiction;
- 6 if the conviction did not occur within the past five (5) years; or
- 7 (C) had a juvenile adjudication for a nonwaivable offense, as
- 8 defined in IC 31-9-2-84.8 that, if committed by an adult,
- 9 would be a felony; and
- 10 (2) the person's commission of the offense, delinquent act, or act
- 11 of abuse or neglect described in subdivision (1) is not relevant to
- 12 the person's present ability to care for a child, and the placement
- 13 is in the best interest of the child.

14 However, a court or the department may not make an out-of-home  
 15 placement if the person has been convicted of a nonwaivable offense,  
 16 as defined in IC 31-9-2-84.8 that is not specifically excluded under  
 17 subdivision (1)(B).

18 (h) In considering the placement under subsection (g), the court or  
 19 the department shall consider the following:

- 20 (1) The length of time since the person committed the offense,
- 21 delinquent act, or abuse or neglect.
- 22 (2) The severity of the offense, delinquent act, or abuse or neglect.
- 23 (3) Evidence of the person's rehabilitation, including the person's
- 24 cooperation with a treatment plan, if applicable.

25 SECTION 6. IC 31-34-20-1.5, AS AMENDED BY P.L.183-2017,  
 26 SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 27 JULY 1, 2019]: Sec. 1.5. (a) Except as provided in subsection (d), the  
 28 juvenile court may not enter a dispositional decree approving or  
 29 ordering placement of a child in another home under section 1(a)(3) of  
 30 this chapter or awarding wardship to the department that will place the  
 31 child in another home under section 1(a)(4) of this chapter if a person  
 32 who is currently residing in the home in which the child would be  
 33 placed under section 1(a)(3) or 1(a)(4) of this chapter has committed  
 34 an act resulting in a substantiated report of child abuse or neglect, has  
 35 a juvenile adjudication for an act that would be a nonwaivable offense,  
 36 as defined in IC 31-9-2-84.8 if committed by an adult, or has a  
 37 conviction for a nonwaivable offense, as defined in IC 31-9-2-84.8.

38 (b) The department or caseworker who prepared the predispositional  
 39 report shall conduct a criminal history check (as defined in  
 40 IC 31-9-2-22.5) to determine if a person described in subsection (a) has  
 41 committed an act resulting in a substantiated report of child abuse or  
 42 neglect, has a juvenile adjudication for an act that would be a



1 nonwaivable offense, as defined in IC 31-9-2-84.8 if committed by an  
 2 adult, or has a conviction for a nonwaivable offense, as defined in  
 3 IC 31-9-2-84.8. However, the department or caseworker is not required  
 4 to conduct a criminal history check under this section if criminal  
 5 history information under IC 31-34-4-2 or IC 31-34-18-6.1 establishes  
 6 whether a person described in subsection (a) has committed an act  
 7 resulting in a substantiated report of child abuse or neglect, has a  
 8 juvenile adjudication for an act that would be a nonwaivable offense,  
 9 as defined in IC 31-9-2-84.8 if committed by an adult, or has a  
 10 conviction for a nonwaivable offense, as defined in IC 31-9-2-84.8.

11 (c) The department or caseworker is not required to conduct a  
 12 criminal history check under this section if:

13 (1) the department or caseworker is considering only a  
 14 out-of-home placement to an entity or a facility that:

15 (A) is not a residence (as defined in IC 3-5-2-42.5); or  
 16 (B) is licensed by the state; or

17 (2) placement under this section is undetermined at the time the  
 18 predispositional report is prepared.

19 (d) A juvenile court may enter a dispositional decree that approves  
 20 placement of a child in another home or award wardship to the  
 21 department that will place the child in a home with a person described  
 22 in subsection (a) if:

23 (1) the person described in subsection (a) has:

24 (A) committed an act resulting in a substantiated report of  
 25 child abuse or neglect;

26 (B) been convicted of:

27 **(i) involuntary manslaughter (IC 35-42-1-4);**

28 ~~(ii)~~ **(ii) battery (IC 35-42-2-1);**

29 **(iii) criminal recklessness (IC 35-42-2-2) as a felony;**

30 **(iv) strangulation (IC 35-42-2-9);**

31 ~~(v)~~ **(v) criminal confinement (IC 35-42-3-3) as a felony;**

32 ~~(vi)~~ **(vi) carjacking (IC 35-42-5-2) (repealed) as a felony;**

33 ~~(vii)~~ **(vii) arson (IC 35-43-1-1) as a felony;**

34 **(viii) nonsupport of a dependent child (IC 35-46-1-5);**

35 **(ix) operating a motorboat while intoxicated**  
 36 **(IC 35-46-9-6) as a felony;**

37 ~~(x)~~ **(x) a felony involving a weapon under IC 35-47; or**  
 38 ~~IC 35-47.5;~~

39 ~~(xi)~~ **(xi) a felony relating to controlled substances under**  
 40 **IC 35-48-4;**

41 ~~(xii)~~ **(xii) a felony under IC 9-30-5; or**

42 ~~(xiii)~~ **(xiii) a felony that is substantially equivalent to a felony**



1 listed in this clause for which the conviction was entered in  
 2 another jurisdiction;  
 3 if the conviction did not occur within the past five (5) years; or  
 4 (C) had a juvenile adjudication for a nonwaivable offense, as  
 5 defined in IC 31-9-2-84.8 that, if committed by an adult,  
 6 would be a felony; and  
 7 (2) the person's commission of the offense, delinquent act, or act  
 8 of abuse or neglect described in subdivision (1) is not relevant to  
 9 the person's present ability to care for a child, and placing a child  
 10 in another home or awarding wardship to the department is in the  
 11 best interest of the child.

12 However, a court may not enter a dispositional decree that approves  
 13 placement of a child in another home or awards wardship to the  
 14 department if the person has been convicted of a nonwaivable offense,  
 15 as defined in IC 31-9-2-84.8 that is not specifically excluded under  
 16 subdivision (1)(B).

17 (e) In considering the placement under subsection (d), the court  
 18 shall consider the following:

- 19 (1) The length of time since the person committed the offense,  
 20 delinquent act, or act that resulted in the substantiated report of  
 21 abuse or neglect.
- 22 (2) The severity of the offense, delinquent act, or abuse or neglect.
- 23 (3) Evidence of the person's rehabilitation, including the person's  
 24 cooperation with a treatment plan, if applicable.

25 SECTION 7. IC 31-34-21-7.5, AS AMENDED BY P.L.183-2017,  
 26 SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 27 JULY 1, 2019]: Sec. 7.5. (a) Except as provided in subsection (d), the  
 28 juvenile court may not approve a permanency plan under subsection  
 29 (c)(1)(D), (c)(1)(E), or (c)(1)(F) if a person who is currently residing  
 30 with a person described in subsection (c)(1)(D) or (c)(1)(E) or in a  
 31 residence in which the child would be placed under subsection  
 32 (c)(1)(F) has committed an act resulting in a substantiated report of  
 33 child abuse or neglect, has a juvenile adjudication for an act that would  
 34 be a nonwaivable offense, as defined in IC 31-9-2-84.8 if committed by  
 35 an adult, or has a conviction for a nonwaivable offense, as defined in  
 36 IC 31-9-2-84.8.

37 (b) Before requesting juvenile court approval of a permanency plan,  
 38 the department shall conduct a criminal history check (as defined in  
 39 IC 31-9-2-22.5) to determine if a person described in subsection (a) has  
 40 committed an act resulting in a substantiated report of child abuse or  
 41 neglect, has a juvenile adjudication for an act that would be a  
 42 nonwaivable offense, as defined in IC 31-9-2-84.8 if committed by an



1 adult, or has a conviction for a nonwaivable offense, as defined in  
 2 IC 31-9-2-84.8. However, the department is not required to conduct a  
 3 criminal history check under this section if criminal history information  
 4 under IC 31-34-4-2, IC 31-34-18-6.1, or IC 31-34-20-1.5 establishes  
 5 whether a person described in subsection (a) has committed an act  
 6 resulting in a substantiated report of child abuse or neglect, has a  
 7 juvenile adjudication for an act that would be a nonwaivable offense,  
 8 as defined in IC 31-9-2-84.8 if committed by an adult, or has a  
 9 conviction for a nonwaivable offense, as defined in IC 31-9-2-84.8.

10 (c) A permanency plan, or plans, if concurrent planning, under this  
 11 chapter includes the following:

12 (1) The intended permanent or long term arrangements for care  
 13 and custody of the child that may include any one (1), or two (2),  
 14 if concurrent planning, of the following arrangements that the  
 15 department or the court considers most appropriate and consistent  
 16 with the best interests of the child:

17 (A) Return to or continuation of existing custodial care within  
 18 the home of the child's parent, guardian, or custodian or  
 19 placement of the child with the child's noncustodial parent.

20 (B) Placement of the child for adoption.

21 (C) Placement of the child with a responsible person,  
 22 including:

23 (i) an adult sibling;

24 (ii) a grandparent;

25 (iii) an aunt;

26 (iv) an uncle;

27 (v) a custodial parent of a sibling of the child; or

28 (vi) another relative;

29 who is able and willing to act as the child's permanent  
 30 custodian and carry out the responsibilities required by the  
 31 permanency plan.

32 (D) Appointment of a legal guardian. The legal guardian  
 33 appointed under this section is a caretaker in a judicially  
 34 created relationship between the child and caretaker that is  
 35 intended to be permanent and self-sustaining as evidenced by  
 36 the transfer to the caretaker of the following parental rights  
 37 with respect to the child:

38 (i) Care, custody, and control of the child.

39 (ii) Decision making concerning the child's upbringing.

40 (E) A supervised independent living arrangement or foster  
 41 care for the child with a permanency plan of another planned,  
 42 permanent living arrangement. However, a child less than



- 1 sixteen (16) years of age may not have another planned,  
 2 permanent living arrangement as the child's permanency plan.  
 3 (2) A time schedule for implementing the applicable provisions  
 4 of the permanency plan.  
 5 (3) Provisions for temporary or interim arrangements for care and  
 6 custody of the child, pending completion of implementation of the  
 7 permanency plan.  
 8 (4) Other items required to be included in a case plan under  
 9 IC 31-34-15 or federal law, consistent with the permanent or long  
 10 term arrangements described by the permanency plan.  
 11 (d) A juvenile court may approve a permanency plan if:  
 12 (1) a person described in subsection (a) has:  
 13 (A) committed an act resulting in a substantiated report of  
 14 child abuse or neglect;  
 15 (B) been convicted of:  
 16 (i) **involuntary manslaughter (IC 35-42-1-4);**  
 17 (ii) **battery (IC 35-42-2-1);**  
 18 (iii) **criminal recklessness (IC 35-42-2-2) as a felony;**  
 19 (iv) **strangulation (IC 35-42-2-9);**  
 20 (v) **criminal confinement (IC 35-42-3-3) as a felony;**  
 21 (vi) **carjacking (IC 35-42-5-2) (repeated) as a felony;**  
 22 (vii) **arson (IC 35-43-1-1) as a felony;**  
 23 (viii) **nonsupport of a dependent child (IC 35-46-1-5);**  
 24 (ix) **operating a motorboat while intoxicated**  
 25 **(IC 35-46-9-6) as a felony;**  
 26 (x) **a felony involving a weapon under IC 35-47; or a**  
 27 **felony involving controlled explosives under IC 35-47.5;**  
 28 (xi) **a felony relating to controlled substances under**  
 29 **IC 35-48-4;**  
 30 (xii) **a felony under IC 9-30-5; or**  
 31 (xiii) **a felony that is substantially equivalent to a felony**  
 32 **listed in this clause for which the conviction was entered in**  
 33 **another jurisdiction;**  
 34 **if the conviction did not occur within the past five (5) years; or**  
 35 **(C) had a juvenile adjudication for a nonwaivable offense, as**  
 36 **defined in IC 31-9-2-84.8 that, if committed by an adult,**  
 37 **would be a felony; and**  
 38 (2) the person's commission of the offense, delinquent act, or act  
 39 of abuse or neglect described in subdivision (1) is not relevant to  
 40 the person's present ability to care for a child, and that approval  
 41 of the permanency plan is in the best interest of the child.  
 42 However, a court may not approve a permanency plan if the person has





1 been convicted of a nonwaivable offense, as defined in IC 31-9-2-84.8  
 2 that is not specifically excluded under subdivision (1)(B), or has a  
 3 juvenile adjudication for an act that would be a nonwaivable offense,  
 4 as defined in IC 31-9-2-84.8 if committed by an adult that is not  
 5 specifically excluded under subdivision (1)(B).

6 (e) In making its written finding under subsection (d), the court shall  
 7 consider the following:

8 (1) The length of time since the person committed the offense,  
 9 delinquent act, or act that resulted in the substantiated report of  
 10 abuse or neglect.

11 (2) The severity of the offense, delinquent act, or abuse or neglect.

12 (3) Evidence of the person's rehabilitation, including the person's  
 13 cooperation with a treatment plan, if applicable.

14 SECTION 8. IC 31-37-19-6.5, AS AMENDED BY P.L.183-2017,  
 15 SECTION 57, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 16 JULY 1, 2019]: Sec. 6.5. (a) Except as provided in subsection (d), the  
 17 juvenile court may not enter a dispositional decree approving  
 18 placement of a child in another home under section 1(a)(3) or  
 19 6(b)(2)(D) of this chapter or awarding wardship to a person or facility  
 20 that results in a placement with a person under section 1(a)(4) or  
 21 6(b)(2)(E) of this chapter if a person who is currently residing in the  
 22 home in which the child would be placed under section 1(a)(3), 1(a)(4),  
 23 6(b)(2)(D), or 6(b)(2)(E) of this chapter has committed an act resulting  
 24 in a substantiated report of child abuse or neglect, has a juvenile  
 25 adjudication for an act that would be a nonwaivable offense, as defined  
 26 in IC 31-9-2-84.8 if committed by an adult, or has a conviction for a  
 27 nonwaivable offense, as defined in IC 31-9-2-84.8.

28 (b) The juvenile probation officer who prepared the predispositional  
 29 report shall conduct a criminal history check (as defined in  
 30 IC 31-9-2-22.5) to determine if a person described in subsection (a) has  
 31 committed an act resulting in a substantiated report of child abuse or  
 32 neglect, has a juvenile adjudication for an act that would be a  
 33 nonwaivable offense, as defined in IC 31-9-2-84.8 if committed by an  
 34 adult, or has a conviction for a nonwaivable offense, as defined in  
 35 IC 31-9-2-84.8. However, the probation officer is not required to  
 36 conduct a criminal history check under this section if criminal history  
 37 information obtained under IC 31-37-17-6.1 establishes whether a  
 38 person described in subsection (a) has committed an act resulting in a  
 39 substantiated report of child abuse or neglect, has a juvenile  
 40 adjudication for an act that would be a nonwaivable offense, as defined  
 41 in IC 31-9-2-84.8 if committed by an adult, or has a conviction for a  
 42 nonwaivable offense, as defined in IC 31-9-2-84.8.



1 (c) The juvenile probation officer is not required to conduct a  
2 criminal history check under this section if:

3 (1) the probation officer is considering only an out-of-home  
4 placement to an entity or a facility that:

5 (A) is not a residence (as defined in IC 3-5-2-42.5); or

6 (B) is licensed by the state; or

7 (2) placement under this section is undetermined at the time the  
8 predispositional report is prepared.

9 (d) The juvenile court may enter a dispositional decree approving  
10 placement of a child in another home under section 1(a)(3) or  
11 6(b)(2)(D) of this chapter or awarding wardship to a person or facility  
12 that results in a placement with a person under section 1(a)(4) or  
13 6(b)(2)(E) of this chapter if:

14 (1) a person described in subsection (a) has:

15 (A) committed an act resulting in a substantiated report of  
16 child abuse or neglect;

17 (B) been convicted of:

18 (i) a felony under IC 9-30-5;

19 (ii) involuntary manslaughter (IC 35-42-1-4);

20 (i) (iii) battery (IC 35-42-2-1);

21 (iv) criminal recklessness (IC 35-42-2-2) as a felony;

22 (v) strangulation (IC 35-42-2-9);

23 (ii) (vi) criminal confinement (IC 35-42-3-3) as a felony;

24 (iii) carjacking (IC 35-42-5-2) (repealed) as a felony;

25 (iv) (vii) arson (IC 35-43-1-1) as a felony;

26 (viii) nonsupport of a dependent child (IC 35-46-1-5);

27 (ix) operating a motorboat while intoxicated  
28 (IC 35-46-9-6) as a felony;

29 (v) (x) a felony involving a weapon under IC 35-47; or  
30 IC 35-47.5;

31 (vi) (xi) a felony relating to controlled substances under  
32 IC 35-48-4; or

33 (vii) (xii) a felony that is substantially equivalent to a felony  
34 listed in this clause for which the conviction was entered in  
35 another jurisdiction;

36 if the conviction did not occur within the past five (5) years; or

37 (C) had a juvenile adjudication for a nonwaivable offense, as  
38 defined in IC 31-9-2-84.8 that, if committed by an adult,  
39 would be a felony; and

40 (2) the person's commission of the offense, delinquent act, or act  
41 of abuse or neglect described in subdivision (1) is not relevant to  
42 the person's present ability to care for a child, and placing the



1 child in another home is in the best interest of the child.  
 2 However, a court may not enter a dispositional decree placing a child  
 3 in another home under section 1(a)(3) or 6(b)(2)(D) of this chapter or  
 4 awarding wardship to a person or facility under this subsection if a  
 5 person with whom the child is or will be placed has been convicted of  
 6 a nonwaivable offense, as defined in IC 31-9-2-84.8 that is not  
 7 specifically excluded under subdivision (1)(B).

8 (e) In considering the placement under subsection (d), the court  
 9 shall consider the following:

10 (1) The length of time since the person committed the offense,  
 11 delinquent act, or act that resulted in the substantiated report of  
 12 abuse or neglect.

13 (2) The severity of the offense, delinquent act, or abuse or neglect.

14 (3) Evidence of the person's rehabilitation, including the person's  
 15 cooperation with a treatment plan, if applicable.

16 SECTION 9. IC 36-1-8.5-2, AS AMENDED BY P.L.191-2015,  
 17 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 18 JULY 1, 2019]: Sec. 2. As used in this chapter, "covered person"  
 19 means:

20 (1) a judge;

21 (2) a law enforcement officer;

22 (3) a victim of domestic violence; ~~or~~

23 (4) a public official; ~~or~~

24 **(5) an employee of the department of child services.**

25 SECTION 10. IC 36-1-8.5-2.5 IS ADDED TO THE INDIANA  
 26 CODE AS A **NEW SECTION** TO READ AS FOLLOWS  
 27 [EFFECTIVE JULY 1, 2019]: **Sec. 2.5. As used in this chapter,**  
 28 **"employee of the department of child services" means an**  
 29 **individual who is or was employed as any of the following by the**  
 30 **department of child services established by IC 31-25-1-1:**

31 **(1) A family case manager trainee.**

32 **(2) A family case manager.**

33 **(3) A family case manager supervisor.**

34 **(4) A local office director.**

35 **(5) A regional manager.**

36 **(6) A child services assistant.**

37 **(7) A child services attorney.**



COMMITTEE REPORT

Mr. Speaker: Your Committee on Family, Children and Human Affairs, to which was referred House Bill 1198, 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 1198 as introduced.)

FRIZZELL

Committee Vote: Yeas 12, Nays 0

