

HOUSE BILL No. 1242

DIGEST OF INTRODUCED BILL

Citations Affected: IC 29-3; IC 31-10-2; IC 31-17; IC 31-19-11; IC 31-27-2; IC 31-33-28.

Synopsis: Parents with a disability. Specifies that it is the policy of the state to recognize the importance of family and children, including the parenting rights of a parent, regardless of whether the parent has a disability. Provides that the right of a person with a disability to parent the person's child may not be denied or restricted solely because the person has a disability. Establishes procedures to be used in proceedings concerning: (1) custody; (2) parenting time; (3) adoption; (4) foster care; and (5) guardianship; when a parent, prospective parent, prospective foster parent, or prospective guardian is a person with a disability. Requires the department of child services to implement disability awareness training. Provides for the expungement of information relating to the unlawful removal of a child from the home of a person with a disability. Makes conforming amendments.

Effective: July 1, 2020.

Porter

January 13, 2020, read first time and referred to Committee on Family, Children and Human Affairs.



Second Regular Session of the 121st General Assembly (2020)

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 2019 Regular Session of the General Assembly.

HOUSE BILL No. 1242

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 29-3-5-4, AS AMENDED BY P.L.194-2017,
- 2 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 3 JULY 1, 2020]: Sec. 4. **(a)** The court shall appoint as guardian a
- 4 qualified person or persons most suitable and willing to serve, having
- 5 due regard to the following:
- 6 (1) Any request made by a person alleged to be an incapacitated
- 7 person, including designations in a durable power of attorney
- 8 under IC 30-5-3-4(a).
- 9 (2) Any request made for a minor by:
- 10 (A) a parent of the minor; or
- 11 (B) a de facto custodian of the minor, including a designation
- 12 in a power of attorney under IC 30-5-3-4(b) or IC 30-5-3-4(c).
- 13 (3) Any request contained in a will or other written instrument.
- 14 (4) A designation of a standby guardian under IC 29-3-3-7.
- 15 (5) Any request made by a minor who is at least fourteen (14)
- 16 years of age.
- 17 (6) Any request made by the spouse of the alleged incapacitated



1 person.

2 (7) The relationship of the proposed guardian to the individual for
3 whom guardianship is sought.

4 (8) Any person acting for the incapacitated person under a
5 durable power of attorney.

6 (9) The best interest of the incapacitated person or minor and the
7 property of the incapacitated person or minor.

8 **(b) Section 4.1 of this chapter applies when a prospective**
9 **guardian is a person with a disability.**

10 SECTION 2. IC 29-3-5-4.1 IS ADDED TO THE INDIANA CODE
11 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
12 1, 2020]: **Sec. 4.1. (a) This section applies to a proceeding to appoint**
13 **a guardian for a minor or an incapacitated person when a**
14 **prospective guardian is a person with a disability.**

15 **(b) As used in this section, "disability" has the meaning set forth**
16 **in 42 U.S.C. 12102.**

17 **(c) As used in this section, "supportive guardianship services"**
18 **means services that may assist a guardian with a disability in the**
19 **effective use of techniques and other alternative methods to enable**
20 **the guardian to discharge the responsibilities of the guardianship**
21 **as successfully as a guardian who does not have a disability.**

22 **(d) A court may not refuse to appoint a person with a disability**
23 **as a guardian if the person is otherwise the most qualified and**
24 **suitable guardian as described in section 4 of this chapter.**

25 **(e) If a person alleges that a prospective guardian's disability**
26 **will have a detrimental effect on the minor child or incapacitated**
27 **person, the person making the allegation bears the burden of**
28 **establishing by clear and convincing evidence that the guardian's**
29 **disability endangers or will likely endanger the health, safety, or**
30 **welfare of the minor child or incapacitated person.**

31 **(f) If a person makes the showing described in subsection (e), the**
32 **prospective guardian with a disability may present rebuttal**
33 **evidence demonstrating that the implementation of supportive**
34 **guardianship services will alleviate the issues described in**
35 **subsection (e). A court may award guardianship to a person with**
36 **a disability on the condition that the guardian implement**
37 **supportive guardianship services. The court shall review the need**
38 **for supportive guardianship services after a reasonable period of**
39 **time.**

40 **(g) If a court denies the guardianship of a person with a**
41 **disability, the court shall make specific written findings:**

42 **(1) setting forth the basis for its determination; and**



1 **(2) explaining why the reasonable accommodation of**
 2 **supportive guardianship services is insufficient to award the**
 3 **guardianship.**

4 SECTION 3. IC 29-3-5-5, AS AMENDED BY P.L.194-2017,
 5 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 JULY 1, 2020]: Sec. 5. (a) The following are entitled to consideration
 7 for appointment as a guardian under section 4 of this chapter in the
 8 order listed:

- 9 (1) A person designated in a durable power of attorney.
 10 (2) A person designated as a standby guardian under IC 29-3-3-7.
 11 (3) The spouse of an incapacitated person.
 12 (4) An adult child of an incapacitated person.
 13 (5) A parent of an incapacitated person, or a person nominated by
 14 will of a deceased parent of an incapacitated person or by any
 15 writing signed by a parent of an incapacitated person and attested
 16 to by at least two (2) witnesses, or in a power of attorney of a
 17 living parent of an incapacitated person under IC 30-5-3-4(c).
 18 (6) A parent of a minor, a de facto custodian of a minor, or a
 19 person nominated:
 20 (A) by will of a deceased parent or a de facto custodian of a
 21 minor; or
 22 (B) by a power of attorney of a living parent or a de facto
 23 custodian of a minor.
 24 (7) Any person related to an incapacitated person by blood or
 25 marriage with whom the incapacitated person has resided for
 26 more than six (6) months before the filing of the petition.
 27 (8) A person nominated by the incapacitated person who is caring
 28 for or paying for the care of the incapacitated person.

29 (b) With respect to persons having equal priority, the court shall
 30 select the person it considers best qualified to serve as guardian. The
 31 court, acting in the best interest of the incapacitated person or minor,
 32 may pass over a person having priority and appoint a person having a
 33 lower priority or no priority under this section. **Section 4.1 of this**
 34 **chapter applies to this subsection if a person having equal priority**
 35 **is a person with a disability.**

36 SECTION 4. IC 29-3-8-9, AS AMENDED BY P.L.48-2012,
 37 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 38 JULY 1, 2020]: Sec. 9. (a) A probate or juvenile court may include in
 39 its order creating a guardianship of a minor the following:

- 40 (1) A requirement that the minor must reside with the guardian
 41 until the guardianship is terminated or modified.
 42 (2) Any terms and conditions that a parent must meet in order to



1 seek modification or termination of the guardianship.

2 **(3) The requirement that the guardian implement supportive**
 3 **guardianship services (as defined in IC 29-3-5-4.1).**

4 (b) Except as provided in IC 29-3-12, if an order creating a
 5 guardianship contains terms and conditions described in subsection
 6 (a)(2), the court may modify or terminate the guardianship only if the
 7 parent:

- 8 (1) complies with the terms and conditions; and
 9 (2) proves the parent's current fitness to assume all parental
 10 obligations by a preponderance of the evidence.

11 (c) If:

12 (1) a petition is filed for modification, resignation, or removal of
 13 the guardian or termination of the guardianship before the parent
 14 complies with the court ordered terms and conditions described
 15 in subsection (a)(2); and

16 (2) the minor:

17 (A) was the subject of a petition alleging the child to be a child
 18 in need of services; or

19 (B) is participating in a program of informal adjustment;

20 the court shall refer the petition to the department of child services for
 21 the department of child services to determine the placement of the child
 22 in accordance with the best interests of the child.

23 (d) A court shall notify the department of child services:

24 (1) if:

25 (A) the court appoints a guardian for a minor who:

26 (i) was the subject of a petition alleging the minor to be a
 27 child in need of services; or

28 (ii) is participating in a program of informal adjustment; and

29 (B) a petition to modify or terminate the guardianship of the
 30 minor or a petition regarding the death, resignation, or removal
 31 of the guardian is filed; and

32 (2) of any hearings related to the petitions described under
 33 subdivision (1)(B).

34 (e) If a minor was the subject of a petition alleging the minor to be
 35 a child in need of services or is participating in a program of informal
 36 adjustment, the court shall do the following at a hearing regarding a
 37 petition filed under this section:

38 (1) Consider the position of the department of child services.

39 (2) If requested by the department of child services, allow the
 40 department of child services to present evidence regarding:

41 (A) whether the guardianship should be modified or
 42 terminated;



- 1 (B) the fitness of the parent to provide for the care and
 2 supervision of the minor at the time of the hearing;
 3 (C) the appropriate care and placement of the child; and
 4 (D) the best interests of the child.

5 (f) The department of child services or the proposed guardian shall
 6 notify the court creating a guardianship if the department of child
 7 services has approved financial assistance to a guardian for the benefit
 8 of the protected person, as a component of child services (as defined in
 9 IC 31-9-2-17.8(1)(E)). If the guardian will be provided assistance as a
 10 component of child services, the court shall order the guardian to
 11 provide financial support to the protected person to the extent the
 12 following resources do not fully support the needs of the protected
 13 person:

- 14 (1) The guardianship property of the protected person.
 15 (2) Child support or other financial assistance received by the
 16 guardian from the protected person's parent or parents.
 17 (3) Periodic payments the guardian receives from the department
 18 of child services for support of the protected person as set forth in
 19 the department of child service's rules or the terms of the
 20 guardianship assistance agreement.

21 SECTION 5. IC 31-10-2-1 IS AMENDED TO READ AS
 22 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 1. It is the policy of this
 23 state and the purpose of this title to:

- 24 (1) recognize the importance of family and children in our society,
 25 **including the parenting rights of a parent, regardless of**
 26 **whether the parent has a disability;**
 27 (2) recognize the responsibility of the state to enhance the
 28 viability of children and family in our society;
 29 (3) acknowledge the responsibility each person owes to the other;
 30 (4) strengthen family life by assisting parents to fulfill their
 31 parental obligations;
 32 (5) ensure that children within the juvenile justice system are
 33 treated as persons in need of care, protection, treatment, and
 34 rehabilitation;
 35 (6) remove children from families only when it is in the child's
 36 best interest or in the best interest of public safety;
 37 (7) provide for adoption as a viable permanency plan for children
 38 who are adjudicated children in need of services;
 39 (8) provide a juvenile justice system that protects the public by
 40 enforcing the legal obligations that children have to society and
 41 society has to children;
 42 (9) use diversionary programs when appropriate;



1 (10) provide a judicial procedure that:

2 (A) ensures fair hearings;

3 (B) recognizes and enforces the legal rights of children and
4 their parents; and

5 (C) recognizes and enforces the accountability of children and
6 parents;

7 (11) promote public safety and individual accountability by the
8 imposition of appropriate sanctions; and

9 (12) provide a continuum of services developed in a cooperative
10 effort by local governments and the state.

11 SECTION 6. IC 31-10-2-3 IS ADDED TO THE INDIANA CODE
12 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
13 1, 2020]: **Sec. 3. (a) The right of a person with a disability to parent
14 the person's child may not be denied or restricted solely because
15 the person has a disability.**

16 **(b) The department of child services shall implement
17 appropriate training programs that include disability advocates
18 and persons with a disability to educate departmental employees
19 in the rights and capabilities of persons with a disability.**

20 SECTION 7. IC 31-17-2-8.1 IS ADDED TO THE INDIANA CODE
21 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
22 1, 2020]: **Sec. 8.1. (a) This section applies to a custody proceeding,
23 including a proceeding to modify custody when one (1) or more
24 parents has a disability.**

25 **(b) As used in this section, "disability" has the meaning set forth
26 in 42 U.S.C. 12102.**

27 **(c) As used in this section, "supportive parenting services"
28 means services that may assist a parent with a disability in the
29 effective use of techniques and other alternative methods to enable
30 the parent to discharge parental responsibilities as successfully as
31 a parent who does not have a disability.**

32 **(d) A court may not deny or restrict custody because one (1) or
33 more parents is a person with a disability, if the court finds under
34 section 8 of this chapter that custody is otherwise in the best
35 interests of the child.**

36 **(e) If a person alleges that a parent's disability will have a
37 detrimental effect on a child, the person making the allegation
38 bears the burden of establishing by clear and convincing evidence
39 that the parent's disability endangers or will likely endanger the
40 health, safety, or welfare of the child.**

41 **(f) If a person makes the showing described in subsection (e), the
42 parent with a disability may present rebuttal evidence**



1 **demonstrating that the implementation of supportive parenting**
 2 **services will alleviate the issues described in subsection (e). A court**
 3 **may award custody to a parent with a disability on the condition**
 4 **that the parent implement supportive parenting services. The court**
 5 **shall review the need for supportive parenting services after a**
 6 **reasonable period of time.**

7 **(g) If a court denies or restricts the custody of a parent with a**
 8 **disability, the court shall make specific written findings:**

9 **(1) setting forth the basis for its determination; and**

10 **(2) explaining why the reasonable accommodation of**
 11 **supportive parenting services is insufficient to grant**
 12 **unrestricted custody.**

13 SECTION 8. IC 31-17-4-1, AS AMENDED BY P.L.223-2019,
 14 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 15 JULY 1, 2020]: Sec. 1. (a) Subject to subsections (d) and (e) **and**
 16 **subject to section 1.1 of this chapter**, a parent not granted custody of
 17 the child is entitled to reasonable parenting time rights unless the court
 18 finds, after a hearing, that parenting time by the noncustodial parent
 19 might endanger the child's physical health or significantly impair the
 20 child's emotional development.

21 (b) The court may interview the child in chambers to assist the court
 22 in determining the child's perception of whether parenting time by the
 23 noncustodial parent might endanger the child's physical health or
 24 significantly impair the child's emotional development.

25 (c) The court may permit counsel to be present at the interview. If
 26 counsel is present:

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

28 (2) the interview may be made part of the record for purposes of
 29 appeal.

30 (d) Except as provided in subsection (e), if a court grants parenting
 31 time rights to a person who has been convicted of:

32 (1) child molesting (IC 35-42-4-3); or

33 (2) child exploitation (IC 35-42-4-4(b) or IC 35-42-4-4(c));

34 there is a rebuttable presumption that the parenting time with the child
 35 must be supervised.

36 (e) If a court grants parenting time rights to a person who has been
 37 convicted of:

38 (1) child molesting (IC 35-42-4-3); or

39 (2) child exploitation (IC 35-42-4-4(b) or IC 35-42-4-4(c));

40 within the previous five (5) years, the court shall order that the
 41 parenting time with the child must be supervised.

42 SECTION 9. IC 31-17-4-1.1 IS ADDED TO THE INDIANA CODE



1 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
2 1, 2020]: **Sec. 1.1. (a) This section applies to a proceeding to
3 determine or modify parenting time rights when one (1) or more
4 parents have a disability.**

5 **(b) As used in this section, "disability" has the meaning set forth
6 in 42 U.S.C. 12102.**

7 **(c) As used in this section, "supportive parenting services"
8 means services that may assist a parent with a disability in the
9 effective use of techniques and other alternative methods to enable
10 the parent to discharge parental responsibilities as successfully as
11 a parent who does not have a disability.**

12 **(d) A court may not deny or unreasonably restrict parenting
13 time because one (1) or more parents is a person with a disability,
14 if the parent is otherwise entitled to parenting time under section
15 1 of this chapter.**

16 **(e) If a person alleges that a parent's disability might endanger
17 the child's physical health or significantly impair the child's
18 emotional development, the person making the allegation bears the
19 burden of establishing by clear and convincing evidence that the
20 parent's disability might endanger the child's physical health or
21 significantly impair the child's emotional development.**

22 **(f) If a person makes the showing described in subsection (e), the
23 parent with a disability may present rebuttal evidence
24 demonstrating that the implementation of supportive parenting
25 services will alleviate the issues described in subsection (e). A court
26 may award parenting time to a parent with a disability on the
27 condition that the parent implement supportive parenting services.
28 The court shall review the need for supportive parenting services
29 after a reasonable period of time.**

30 **(g) If a court denies or unreasonably restricts the parenting time
31 of a parent with a disability, the court shall make specific written
32 findings:**

- 33 **(1) setting forth the basis for its determination; and**
34 **(2) explaining why the reasonable accommodation of
35 supportive parenting services is insufficient to grant
36 parenting time, or to grant parenting time that is not
37 unreasonably restricted.**

38 SECTION 10. IC 31-19-11-1, AS AMENDED BY P.L.243-2019,
39 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
40 JULY 1, 2020]: **Sec. 1. (a) Whenever the court has heard the evidence
41 and finds that:**

- 42 **(1) the adoption requested is in the best interest of the child;**



- 1 (2) the petitioner or petitioners for adoption are of sufficient
 2 ability to rear the child and furnish suitable support and
 3 education;
 4 (3) the report of the investigation and recommendation under
 5 IC 31-19-8-5 has been filed;
 6 (4) the attorney or agency arranging an adoption has filed with the
 7 court an affidavit prepared by the state department of health under
 8 IC 31-19-5-16 indicating whether a man is entitled to notice of the
 9 adoption because the man has registered with the putative father
 10 registry in accordance with IC 31-19-5;
 11 (5) proper notice arising under subdivision (4), if notice is
 12 necessary, of the adoption has been given;
 13 (6) the attorney or agency has filed with the court an affidavit
 14 prepared by the state department of health under:
 15 (A) IC 31-19-6 indicating whether a record of a paternity
 16 determination; or
 17 (B) IC 16-37-2-2(g) indicating whether a paternity affidavit
 18 executed under IC 16-37-2-2.1;
 19 has been filed in relation to the child;
 20 (7) proper consent, if consent is necessary, to the adoption has
 21 been given;
 22 (8) the petitioner for adoption is not prohibited from adopting the
 23 child as the result of an inappropriate criminal history described
 24 in subsection (c) or (d); and
 25 (9) the person, licensed child placing agency, or local office that
 26 has placed the child for adoption has provided the documents and
 27 other information required under IC 31-19-17 to the prospective
 28 adoptive parents;
 29 the court shall grant the petition for adoption and enter an adoption
 30 decree.
 31 (b) A court may not grant an adoption unless the state department
 32 of health's affidavit under IC 31-19-5-16 is filed with the court as
 33 provided under subsection (a)(4).
 34 (c) A juvenile adjudication for an act listed in IC 31-9-2-84.8 that
 35 would be a felony if committed by an adult, a conviction of a
 36 misdemeanor related to the health and safety of a child, or a conviction
 37 of a felony not listed in IC 31-9-2-84.8 by a petitioner for adoption or
 38 household member is a permissible basis for the court to deny the
 39 petition for adoption. In addition, the court may not grant an adoption
 40 if a petitioner for adoption has been convicted of a nonwaivable offense
 41 under IC 31-9-2-84.8. However, the court is not prohibited from
 42 granting an adoption based upon a felony conviction for:



- 1 (1) a felony under IC 9-30-5;
- 2 (2) battery (IC 35-42-2-1);
- 3 (3) criminal recklessness (IC 35-42-2-2) as a felony;
- 4 (4) criminal confinement (IC 35-42-3-3);
- 5 (5) arson (IC 35-43-1-1);
- 6 (6) nonsupport of a dependent child (IC 35-46-1-5);
- 7 (7) operating a motorboat while intoxicated (IC 35-46-9-6) as a
- 8 felony;
- 9 (8) a felony involving a weapon under IC 35-47;
- 10 (9) a felony relating to controlled substances under IC 35-48-4;
- 11 (10) attempt to commit a felony listed in subdivisions (1) through
- 12 (9); or
- 13 (11) a felony that is substantially equivalent to a felony listed in
- 14 this section for which the conviction was entered in another
- 15 jurisdiction;

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

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

21 **(e) Section 1.1 of this chapter applies when one (1) or more**
22 **petitioners is a person with a disability.**

23 SECTION 11. IC 31-19-11-1.1 IS ADDED TO THE INDIANA
24 CODE AS A NEW SECTION TO READ AS FOLLOWS
25 [EFFECTIVE JULY 1, 2020]: **Sec. 1.1. (a) This section applies to a**
26 **petition for adoption when one (1) or more petitioners is a person**
27 **with a disability.**

28 **(b) As used in this section, "disability" has the meaning set forth**
29 **in 42 U.S.C. 12102.**

30 **(c) As used in this section, "supportive parenting services"**
31 **means services that may assist a parent with a disability in the**
32 **effective use of techniques and other alternative methods to enable**
33 **the parent to discharge parental responsibilities as successfully as**
34 **a parent who does not have a disability.**

35 **(d) A court may not deny a petition for adoption because one (1)**
36 **or more petitioners is a person with a disability, if the court finds**
37 **under section 1 of this chapter that:**

- 38 **(1) adoption is otherwise in the best interests of the child;**
- 39 **(2) the petitioner or petitioners for adoption have sufficient**
40 **ability to rear the child and furnish suitable support and**
41 **education;**
- 42 **(3) the other prerequisites described in section 1 of this**



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chapter have been met; and

(4) the petitioner or petitioners are not otherwise prohibited from adopting.

(e) If a person alleges that a petitioner's disability:

(1) will have a detrimental effect on a child; or

(2) makes the petitioner or petitioners unable to rear the child and furnish suitable support and education;

the person making the allegation bears the burden of establishing the allegations by clear and convincing evidence.

(f) If a person makes the showing described in subsection (e), the petitioner or petitioners with a disability may present rebuttal evidence demonstrating that the implementation of supportive parenting services will alleviate the issues described in subsection (e). A court shall consider the availability of supportive parenting services in making its determination.

(g) If a court denies a petition for adoption by a petitioner or petitioners with a disability, the court shall make specific written findings:

(1) setting forth the basis for its determination; and

(2) explaining why the reasonable accommodation of supportive parenting services is insufficient to grant the petition.

SECTION 12. IC 31-27-2-1, AS AMENDED BY P.L.128-2012, SECTION 93, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 1. The department shall perform the following duties:

(1) Administer the licensing and monitoring of child caring institutions, foster family homes, group homes, and child placing agencies in accordance with this article.

(2) Ensure that a criminal history check of an applicant is conducted under IC 31-9-2-22.5 before issuing a license.

(3) **Subject to section 1.1 of this chapter**, provide for the issuance, denial, and revocation of licenses.

(4) Cooperate with governing bodies of child caring institutions, foster family homes, group homes, and child placing agencies and their staffs to improve standards of child care.

(5) Prepare at least biannually a directory of licensees, except for foster family homes, with a description of the program capacity and type of children served that will be distributed to the legislature, licensees, and other interested parties as a public document.

(6) Deposit all license application fees collected under section 2



1 of this chapter in the department of child services child care fund
2 established by IC 31-25-2-16.

3 SECTION 13. IC 31-27-2-1.1 IS ADDED TO THE INDIANA
4 CODE AS A NEW SECTION TO READ AS FOLLOWS
5 [EFFECTIVE JULY 1, 2020]: **Sec. 1.1. (a) This section applies to the**
6 **issuance of a license to operate a foster family home to an applicant**
7 **who is a person with a disability.**

8 **(b) As used in this section, "disability" has the meaning set forth**
9 **in 42 U.S.C. 12102.**

10 **(c) As used in this section, "supportive parenting services"**
11 **means services that may assist a foster parent with a disability in**
12 **the effective use of techniques and other alternative methods to**
13 **enable the parent to discharge parental responsibilities as**
14 **successfully as a foster parent who does not have a disability.**

15 **(d) The department may not deny an application for a license to**
16 **operate a foster family home because the applicant is a person with**
17 **a disability, if the applicant is otherwise qualified and entitled to**
18 **the license.**

19 **(e) If a person alleges that an applicant's disability will have a**
20 **detrimental effect on the applicant's ability to operate a foster**
21 **family home, the person making the allegation bears the burden of**
22 **establishing by clear and convincing evidence that the applicant's**
23 **disability endangers or will likely endanger the health, safety, or**
24 **welfare of a child.**

25 **(f) If a person makes the showing described in subsection (e), the**
26 **applicant with a disability may present rebuttal evidence**
27 **demonstrating that the implementation of supportive parenting**
28 **services will alleviate the issues described in subsection (e). The**
29 **department issue a license to operate a foster family home to an**
30 **applicant with a disability on the condition that the applicant**
31 **implement supportive parenting services. The department shall**
32 **review the need for supportive parenting services after a**
33 **reasonable period of time.**

34 **(g) If the department refuses to issue a license to operate a foster**
35 **family home to an applicant with a disability, the department shall**
36 **make specific written findings:**

- 37 **(1) setting forth the basis for the denial; and**
38 **(2) explaining why the reasonable accommodation of**
39 **supportive parenting services is insufficient to permit issuance**
40 **of the license.**

41 SECTION 14. IC 31-33-28 IS ADDED TO THE INDIANA CODE
42 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE



1 JULY 1, 2020]:
2 **Chapter 28. Expungement of Invalid Removal Orders Relating**
3 **to a Person With a Disability**
4 **Sec. 1. As used in this chapter, "disability" has the meaning set**
5 **forth in 42 U.S.C. 12102.**
6 **Sec. 2. As used in this chapter, "expunge" or "expungement"**
7 **means:**
8 **(1) the removal or deletion of all information maintained by**
9 **the department concerning a report, assessment, or**
10 **determination under this article relating to the unlawful**
11 **removal of a child; and**
12 **(2) the destruction of the information or delivery of the**
13 **information to a person to whom the information pertains.**
14 **Sec. 3. As used in this chapter, "information" includes all files**
15 **and records created or maintained by the department. The term**
16 **includes the original and copies of documents, correspondence,**
17 **messages, photographs, videotapes, audio recordings, audiovisual**
18 **recordings, and any other material contained in electronic, paper,**
19 **or digital form or in other media.**
20 **Sec. 4. If:**
21 **(1) the department removes, or is a party in an action to**
22 **remove, a child from the home of a person with a disability;**
23 **and**
24 **(2) the removal is determined to be contrary to law;**
25 **the department shall expunge all information relating to the**
26 **removal not later than thirty (30) days after the opinion or order**
27 **vacating the removal becomes final.**

