

HOUSE BILL No. 1261

DIGEST OF INTRODUCED BILL

Citations Affected: IC 31-34.

Synopsis: Child placement. Provides that the department of child services (department) may place a child alleged to be a child in need of services with a relative or de facto custodian if the placement is in the best interests of the child.

Effective: July 1, 2020.

May

January 13, 2020, read first time and referred to Committee on Judiciary.



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. 1261

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 31-34-4-2, AS AMENDED BY P.L.243-2019,
2 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2020]: Sec. 2. (a) If a child alleged to be a child in need of
4 services is taken into custody under an order of the court under this
5 chapter and the court orders out-of-home placement, the department is
6 responsible for that placement and care and must consider placing the
7 child with a:
8 (1) suitable and willing relative; or
9 (2) de facto custodian;
10 before considering any other out-of-home placement. **The department**
11 **may place the child with a relative or a de facto custodian if the**
12 **department determines that the placement is in the best interests**
13 **of the child.**
14 (b) The department shall consider placing a child described in
15 subsection (a) with a relative related by blood, marriage, or adoption
16 before considering any other placement of the child.
17 (c) Before the department places a child in need of services with a



1 relative or a de facto custodian, the department shall complete an
2 evaluation based on a home visit of the relative's home.

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

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

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

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

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

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

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

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

25 (B) been convicted of:

26 (i) battery (IC 35-42-2-1);

27 (ii) criminal recklessness (IC 35-42-2-2) as a felony;

28 (iii) criminal confinement (IC 35-42-3-3) as a felony;

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

30 (v) nonsupport of a dependent child (IC 35-46-1-5);

31 (vi) operating a motorboat while intoxicated (IC 35-46-9-6)
32 as a felony;

33 (vii) a felony involving a weapon under IC 35-47;

34 (viii) a felony relating to controlled substances under
35 IC 35-48-4;

36 (ix) a felony under IC 9-30-5;

37 (x) attempt to commit a felony listed in items (i) through
38 (ix); or

39 (xi) a felony that is substantially equivalent to a felony listed
40 in this clause for which the conviction was entered in
41 another jurisdiction;

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



- 1 (C) had a juvenile adjudication for a nonwaivable offense, as
 2 defined in IC 31-9-2-84.8 that, if committed by an adult,
 3 would be a felony; and
 4 (2) the person's commission of the offense, delinquent act, or act
 5 of abuse or neglect described in subdivision (1) is not relevant to
 6 the person's present ability to care for a child, and the placement
 7 is in the best interest of the child.
- 8 However, a court or the department may not make an out-of-home
 9 placement if the person has been convicted of a nonwaivable offense,
 10 as defined in IC 31-9-2-84.8 that is not specifically excluded under
 11 subdivision (1)(B).
- 12 (h) In considering the placement under subsection (g), the court or
 13 the department shall consider the following:
- 14 (1) The length of time since the person committed the offense,
 15 delinquent act, or abuse or neglect.
 16 (2) The severity of the offense, delinquent act, or abuse or neglect.
 17 (3) Evidence of the person's rehabilitation, including the person's
 18 cooperation with a treatment plan, if applicable.
- 19 SECTION 2. IC 31-34-6-2, AS AMENDED BY P.L.123-2014,
 20 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 21 JULY 1, 2020]: Sec. 2. (a) A juvenile court or the department shall
 22 consider placing a child alleged to be a child in need of services with
 23 a suitable and willing relative or de facto custodian of the child before
 24 considering any other placement for the child. **The juvenile court or**
 25 **the department may place the child with a relative or a de facto**
 26 **custodian if the juvenile court or the department, respectively,**
 27 **determines that the placement is in the best interests of the child.**
- 28 (b) A juvenile court or the department shall consider placing a child
 29 described in subsection (a) with a relative related by blood, marriage,
 30 or adoption before considering any other placement of the child.
- 31 (c) Before a child is placed with a relative or de facto custodian, a
 32 home evaluation and background checks described in IC 31-34-4-2 are
 33 required.

