

# HOUSE BILL No. 1343

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 31-9-2; IC 31-17; IC 31-28-7; IC 31-35-2-8.

**Synopsis:** Visitation with a child. Provides that a foster parent may file a petition seeking visitation rights with a child if the child was placed under the care and supervision of the foster parent for at least 12 months. Requires the court to enter a decree after holding a hearing. Allows the court to modify an order granting or denying visitation rights. Requires the department of child services to provide notification to a foster parent if the parent-child relationship of a child who was placed under the care and supervision of the foster parent for at least 12 months is terminated. Provides that a court may grant visitation to a stepparent of a child who is seeking visitation with the child if the stepparent establishes the existence of a custodial and parental relationship and that visitation would be in the child's best interest. Requires the court to consider certain factors in making a determination of whether to grant or deny visitation to a stepparent.

**Effective:** July 1, 2018.

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## Smaltz

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January 11, 2018, read first time and referred to Committee on Judiciary.

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Second Regular Session of the 120th General Assembly (2018)

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 2017 Regular Session of the General Assembly.

# HOUSE BILL No. 1343

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 31-9-2-46.9, AS AMENDED BY P.L.48-2012,  
2 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2018]: Sec. 46.9. "Foster family home", for purposes of  
4 IC 31-27 **and IC 31-28-7**, means a place where an individual resides  
5 and provides care and supervision on a twenty-four (24) hour basis to  
6 a child, as defined in section 13(d) of this chapter, who is receiving  
7 care and supervision under a juvenile court order or for purposes of  
8 placement.

9 SECTION 2. IC 31-9-2-47.2 IS ADDED TO THE INDIANA CODE  
10 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY  
11 1, 2018]: **Sec. 47.2. "Former foster parent visitation", for purposes**  
12 **of IC 31-17-2.2, means visitation rights granted to a former foster**  
13 **parent under IC 31-28-7.**

14 SECTION 3. IC 31-17-2.2-1, AS ADDED BY P.L.50-2006,  
15 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
16 JULY 1, 2018]: Sec. 1. (a) A relocating individual must file a notice of  
17 the intent to move with the clerk of the court that:



- 1 (1) issued the custody order or parenting time order; or  
 2 (2) if subdivision (1) does not apply, has jurisdiction over the  
 3 legal proceedings concerning the custody of or parenting time  
 4 with a child;

5 and send a copy of the notice to any nonrelocating individual.

6 (b) Upon motion of a party, the court shall set the matter for a  
 7 hearing to review and modify, if appropriate, a custody order, parenting  
 8 time order, grandparent visitation order, **former foster parent**  
 9 **visitation order**, or child support order. The court shall take into  
 10 account the following in determining whether to modify a custody  
 11 order, parenting time order, grandparent visitation order, **former foster**  
 12 **parent visitation order**, or child support order:

- 13 (1) The distance involved in the proposed change of residence.  
 14 (2) The hardship and expense involved for the nonrelocating  
 15 individual to exercise parenting time or grandparent **or former**  
 16 **foster parent** visitation.  
 17 (3) The feasibility of preserving the relationship between the  
 18 nonrelocating individual and the child through suitable parenting  
 19 time and grandparent **or former foster parent** visitation  
 20 arrangements, including consideration of the financial  
 21 circumstances of the parties.  
 22 (4) Whether there is an established pattern of conduct by the  
 23 relocating individual, including actions by the relocating  
 24 individual to either promote or thwart a nonrelocating individual's  
 25 contact with the child.  
 26 (5) The reasons provided by the:  
 27 (A) relocating individual for seeking relocation; and  
 28 (B) nonrelocating parent for opposing the relocation of the  
 29 child.  
 30 (6) Other factors affecting the best interest of the child.

31 (c) The court may award reasonable attorney's fees for a motion  
 32 filed under this section in accordance with IC 31-15-10.

33 SECTION 4. IC 31-17-2.2-2, AS ADDED BY P.L.50-2006,  
 34 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 35 JULY 1, 2018]: Sec. 2. (a) If a party provides notice of relocation at an  
 36 initial hearing to determine custody, the court may consider the factors  
 37 set forth in this chapter in the court's initial custody determination.

38 (b) The court may consider a proposed relocation of a child as a  
 39 factor in determining whether to modify a custody order, parenting time  
 40 order, grandparent visitation order, **former foster parent visitation**  
 41 **order**, or child support order.

42 SECTION 5. IC 31-17-2.2-3, AS AMENDED BY P.L.1-2007,



1 SECTION 194, IS AMENDED TO READ AS FOLLOWS  
 2 [EFFECTIVE JULY 1, 2018]: Sec. 3. (a) Except as provided in section  
 3 4 of this chapter, an individual required to file a notice under  
 4 IC 31-14-13-10 or section 1 of this chapter must:

5 (1) send the notice to each nonrelocating individual:

6 (A) by registered or certified mail; and

7 (B) not later than ninety (90) days before the date that the  
 8 relocating individual intends to move; and

9 (2) provide the following information in the notice:

10 (A) The intended new residence, including the:

11 (i) address; and

12 (ii) mailing address of the relocating individual, if the  
 13 mailing address is different than the address under item (i).

14 (B) The home telephone number of the new residence.

15 (C) Any other applicable telephone number for the relocating  
 16 individual.

17 (D) The date that the relocating individual intends to move.

18 (E) A brief statement of the specific reasons for the proposed  
 19 relocation of the child.

20 (F) A proposal for a revised schedule of parenting time, **or**  
 21 grandparent visitation, **or former foster parent visitation**  
 22 with the child.

23 (G) A statement that a parent must file an objection to the  
 24 relocation of the child with the court not later than sixty (60)  
 25 days after receipt of the notice.

26 (H) A statement that a nonrelocating individual may file a  
 27 petition to modify a custody order, parenting time order,  
 28 grandparent visitation order, **former foster parent visitation**  
 29 **order**, or child support order.

30 (b) Except as provided in section 4 of this chapter, if the relocating  
 31 individual is unable to provide the information required under  
 32 subsection (a)(2) not later than ninety (90) days before the relocating  
 33 individual intends to move, the relocating individual shall provide the  
 34 information in the manner required under subsection (a) not later than  
 35 ten (10) days after the date that the relocating individual obtains the  
 36 information required to be provided under subsection (a)(2). However,  
 37 the relocating individual must provide all the information required  
 38 under subsection (a)(2) not later than thirty (30) days before the  
 39 relocating individual intends to move to the new residence.

40 SECTION 6. IC 31-17-4-12 IS ADDED TO THE INDIANA CODE  
 41 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY  
 42 1, 2018]: **Sec. 12. (a) A court may grant visitation to a stepparent**



1 of a child who is seeking visitation with the child upon establishing:

- 2 (1) the existence of a custodial and parental relationship; and  
 3 (2) that visitation would be in the child's best interest.

4 (b) In determining whether visitation under this section would  
 5 be in the best interests of the child, the court shall consider:

- 6 (1) the presumption that a fit parent acts in the best interests  
 7 of his or her child;  
 8 (2) the special weight that must be given to a fit parent's  
 9 decision to deny or limit a person's visitation with the child;  
 10 (3) whether the stepparent has established that visitation with  
 11 the child is in the best interests of the child; and  
 12 (4) whether the parent has denied or limited visitation with  
 13 the child by the stepparent.

14 (c) A court granting visitation to a stepparent of a child shall  
 15 enter a decree containing the court's findings and conclusions.

16 (d) The court may modify an order granting or denying  
 17 visitation under this section whenever modification would serve the  
 18 best interests of the child.

19 SECTION 7. IC 31-28-7 IS ADDED TO THE INDIANA CODE AS  
 20 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY  
 21 1, 2018]:

22 **Chapter 7. Former Foster Parent Visitation**

23 **Sec. 1. This chapter applies to a child who received foster care  
 24 in a foster family home.**

25 **Sec. 2. A former foster parent of a child may seek visitation  
 26 rights with the child if:**

- 27 (1) the child was placed in the home of the foster parent for a  
 28 period of at least twelve (12) months; and  
 29 (2) the child was subsequently removed from placement with  
 30 the foster parent due to reunification with the child's parent,  
 31 guardian, or custodian.

32 **Sec. 3. (a) The court may grant visitation rights to a former  
 33 foster parent described in section 2 of this chapter if the court  
 34 determines that visitation rights are in the best interests of the  
 35 child.**

36 (b) In determining the best interests of the child under this  
 37 section, the court may consider:

- 38 (1) the length of the placement;  
 39 (2) the quality of the relationship between the foster parent  
 40 and the child; and  
 41 (3) any other pertinent matters.

42 (c) The court may interview the child in chambers to assist the



1 court in determining the child's perception of whether visitation by  
 2 the foster parent is in the best interests of the child.

3 (d) The court may permit counsel to be present at the interview.  
 4 If counsel is present:

- 5 (1) a record may be made of the interview; and  
 6 (2) the interview may be made part of the record for purposes  
 7 of appeal.

8 (e) There is a rebuttable presumption that a fit parent's decision  
 9 concerning visitation is in the best interests of the child.

10 Sec. 4. A proceeding for foster parent visitation must be  
 11 commenced by the filing of a petition entitled, "In Re the visitation  
 12 of \_\_\_\_\_". The petition must:

- 13 (1) be filed by a foster parent entitled to seek visitation rights  
 14 under this chapter;  
 15 (2) be verified; and  
 16 (3) set forth the following:  
 17 (A) The names and relationship of:  
 18 (i) the petitioning foster parent or foster parents;  
 19 (ii) each child with whom visitation is sought; and  
 20 (iii) the custodial parent or guardian of each child.  
 21 (B) The present address of each person named in clause  
 22 (A).  
 23 (C) The date of birth of each child with whom visitation is  
 24 sought.  
 25 (D) The date or dates each child was placed with the foster  
 26 parent or foster parents.  
 27 (E) The date or dates of each child's removal from  
 28 placement with the foster parent or foster parents, with  
 29 corresponding reasons for removal from placement.  
 30 (F) The relief sought.

31 Sec. 5. A foster parent seeking visitation rights shall file a  
 32 petition requesting reasonable visitation rights:

- 33 (1) in a circuit, superior, or probate court of the county in  
 34 which the child resides; or  
 35 (2) in the court having jurisdiction under IC 31-30 over a  
 36 proceeding in which the child:  
 37 (A) is alleged to be a delinquent child under IC 31-37; or  
 38 (B) is alleged to be a child in need of services under  
 39 IC 31-34.

40 Sec. 6. When a petition is filed under this chapter, a copy of the  
 41 petition, together with a copy of a summons, shall be served upon  
 42 the custodial and noncustodial parent or guardian of each child



1 with whom visitation is sought in the same manner as service of  
 2 summons in civil actions generally.

3 **Sec. 7. Upon hearing evidence in support of and opposition to a**  
 4 **petition filed under this chapter, the court shall enter a decree**  
 5 **setting forth the court's findings and conclusions.**

6 **Sec. 8. The court may modify an order granting or denying**  
 7 **visitation rights under this chapter whenever modification would**  
 8 **serve the best interests of the child.**

9 **Sec. 9. Visitation rights granted under this chapter survive the**  
 10 **adoption of the child by any of the following:**

11 (1) **A stepparent.**

12 (2) **A person who is biologically related to the child as:**

13 (A) **a grandparent;**

14 (B) **a sibling;**

15 (C) **an aunt;**

16 (D) **an uncle;**

17 (E) **a niece; or**

18 (F) **a nephew.**

19 SECTION 8. IC 31-35-2-8, AS AMENDED BY P.L.128-2012,  
 20 SECTION 173, IS AMENDED TO READ AS FOLLOWS  
 21 [EFFECTIVE JULY 1, 2018]: Sec. 8. (a) Except as provided in section  
 22 4.5(d) of this chapter, if the court finds that the allegations in a petition  
 23 described in section 4 of this chapter are true, the court shall terminate  
 24 the parent-child relationship.

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

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

29 (d) **If the court terminates the parent-child relationship as**  
 30 **described in this section, the department shall provide notice of the**  
 31 **termination to a foster parent if the child was placed under the**  
 32 **care and supervision of the foster parent for at least twelve (12)**  
 33 **months.**

