



March 31, 2021

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# ENGROSSED HOUSE BILL No. 1531

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DIGEST OF HB 1531 (Updated March 29, 2021 3:25 pm - DI 136)

**Citations Affected:** IC 31-9; IC 31-33; IC 31-34.

**Synopsis:** DCS and the education community. Defines "exigent circumstances" for purposes of action taken by the department of child services (DCS) with respect to a child. Allows DCS to interview a child at the child's school without parental consent if: (1) the DCS employee presents his or her credentials or other proof of employment for inspection; and (2) there is written proof of exigent circumstances, except for at nonaccredited nonpublic schools with less than one employee. Requires that the DCS provide assurances that the child's school, or its representative, has been invited to participate in the case plan process.

**Effective:** July 1, 2021.

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## DeVon, Cook, Rowray, Jackson

(SENATE SPONSOR — HOUCHIN)

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January 14, 2021, read first time and referred to Committee on Family, Children and Human Affairs.

February 9, 2021, amended, reported — Do Pass.

February 18, 2021, read second time, amended, ordered engrossed.

February 19, 2021, engrossed.

February 22, 2021, read third time, passed. Yeas 80, nays 15.

### SENATE ACTION

March 8, 2021, read first time and referred to Committee on Family and Children Services.

March 30, 2021, amended, reported favorably — Do Pass.

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EH 1531—LS 7288/DI 136





March 31, 2021

First Regular Session of the 122nd General Assembly (2021)

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 2020 Regular Session of the General Assembly.

## ENGROSSED HOUSE BILL No. 1531

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 31-9-2-44.1 IS ADDED TO THE INDIANA CODE  
2 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2021]: **Sec. 44.1. (a) "Exigent circumstances", as applied to an  
4 action by the department with regard to a child, means that:**  
5 (1) the department has definite and articulable evidence  
6 giving rise to a reasonable suspicion that the child or a child  
7 residing in the home with the child:  
8 (A) has been or is in imminent danger of being physically  
9 or sexually abused; or  
10 (B) has been or is in imminent danger of being neglected in  
11 a manner that would lead a reasonable person to believe  
12 the child's physical safety is seriously endangered;  
13 (2) there is no less intrusive alternative to the department's  
14 action that would reasonably and sufficiently protect the  
15 child's imminent health or safety; and  
16 (3) one (1) or more of the following applies:  
17 (A) The parent, guardian, or custodian of the child:

EH 1531—LS 7288/DI 136



- 1 (i) is the alleged perpetrator of the abuse or neglect of  
 2 the child; or  
 3 (ii) is allegedly aware of the abuse or neglect of the child  
 4 and has allegedly not ensured the child's safety.  
 5 **(B) There is reason to believe that:**  
 6 (i) the safety of the child might be jeopardized; or  
 7 (ii) essential evidence might not be available;  
 8 if the department's action is delayed or the child's parent,  
 9 guardian, or custodian is notified before the department's  
 10 action.  
 11 **(C) The child is a homeless unaccompanied minor and is**  
 12 **voluntarily receiving services at an emergency shelter or**  
 13 **shelter care facility without the presence or consent of the**  
 14 **child's parent, guardian, or custodian.**  
 15 **(b) An allegation of educational neglect does not qualify as an**  
 16 **exigent circumstance.**  
 17 SECTION 2. IC 31-33-8-7, AS AMENDED BY P.L.183-2017,  
 18 SECTION 37, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 19 JULY 1, 2021]: Sec. 7. (a) The department's assessment, to the extent  
 20 that is reasonably possible, must include the following:  
 21 (1) The nature, extent, and cause of the known or suspected child  
 22 abuse or neglect.  
 23 (2) The identity of the person allegedly responsible for the child  
 24 abuse or neglect.  
 25 (3) The names and conditions of other children in the home.  
 26 (4) An evaluation of the parent, guardian, custodian, or person  
 27 responsible for the care of the child.  
 28 (5) The home environment and the relationship of the child to the  
 29 parent, guardian, or custodian or other persons responsible for the  
 30 child's care.  
 31 (6) All other data considered pertinent.  
 32 (b) The assessment may include the following:  
 33 (1) A visit to the child's home.  
 34 (2) An interview with the subject child:  
 35 **(A) upon receiving parental consent;**  
 36 **(B) upon receiving a court order; or**  
 37 **(C) if there are exigent circumstances as defined by**  
 38 **IC 31-9-2-44.1.**  
 39 (3) A physical, psychological, or psychiatric examination of any  
 40 child in the home.  
 41 (c) If:  
 42 (1) admission to the home, the school, or any other place that the



1 child may be; or  
 2 (2) permission of the parent, guardian, custodian, or other persons  
 3 responsible for the child for the physical, psychological, or  
 4 psychiatric examination;  
 5 under subsection (b) cannot be obtained, the juvenile court, upon good  
 6 cause shown, shall follow the procedures under IC 31-32-12.  
 7 (d) If a custodial parent, a guardian, or a custodian of a child refuses  
 8 to allow the department to interview the child after the caseworker has  
 9 attempted to obtain the consent of the custodial parent, guardian, or  
 10 custodian to interview the child, the department may petition a court to  
 11 order the custodial parent, guardian, or custodian to make the child  
 12 available to be interviewed by the caseworker.  
 13 (e) If the court finds that:  
 14 (1) a custodial parent, a guardian, or a custodian has been  
 15 informed of the hearing on a petition described under subsection  
 16 (d); and  
 17 (2) the department has made reasonable and unsuccessful efforts  
 18 to obtain the consent of the custodial parent, guardian, or  
 19 custodian to interview the child;  
 20 the court shall specify in the order the efforts the department made to  
 21 obtain the consent of the custodial parent, guardian, or custodian and  
 22 may grant the motion to interview the child, either with or without the  
 23 custodial parent, guardian, or custodian being present.  
 24 **(f) If the department requests to interview a child at the child's**  
 25 **school, the school, except a nonaccredited nonpublic school that**  
 26 **has less than one (1) employee, shall grant access to the department**  
 27 **to interview the child if:**  
 28 **(1) the department employee presents his or her credentials as**  
 29 **a department case worker, or other proof of employment with**  
 30 **the department, for inspection upon arrival at the school; and**  
 31 **(2) written proof of exigent circumstances exists per the**  
 32 **department manual making parental consent to interview the**  
 33 **child unnecessary.**  
 34 (g) If a parent, guardian, or custodian of a child who is the  
 35 subject of a substantiated investigation of abuse or neglect is an active  
 36 duty member of the military, the department shall notify the United  
 37 States Department of Defense Family Advocacy Program of the  
 38 assessment concerning the child of the active duty member of the  
 39 military upon request.  
 40 SECTION 3. IC 31-34-15-4, AS AMENDED BY P.L.258-2019,  
 41 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 42 JULY 1, 2021]: Sec. 4. A child's case plan must be set out in a form



1 prescribed by the department that meets the specifications set by 45  
 2 CFR 1356.21. The case plan must include a description and discussion  
 3 of the following:

4 (1) A permanent plan, or two (2) permanent plans if concurrent  
 5 planning, for the child and an estimated date for achieving the  
 6 goal of the plan or plans.

7 (2) The appropriate placement for the child based on the child's  
 8 special needs and best interests.

9 (3) The least restrictive family-like setting that is close to the  
 10 home of the child's parent, custodian, or guardian if out-of-home  
 11 placement is recommended. If an out-of-home placement is  
 12 appropriate, the local office or department shall consider whether  
 13 a child in need of services should be placed with the child's  
 14 suitable and willing blood or adoptive relative caretaker,  
 15 including a grandparent, an aunt, an uncle, or an adult sibling,  
 16 before considering other out-of-home placements for the child.

17 (4) Family services recommended for the child, parent, guardian,  
 18 or custodian.

19 (5) Efforts already made to provide family services to the child,  
 20 parent, guardian, or custodian.

21 (6) Efforts that will be made to provide family services that are  
 22 ordered by the court.

23 (7) If the parent of a child is incarcerated:

24 (A) the services and treatment available to the parent at the  
 25 facility at which the parent is incarcerated; and

26 (B) how the parent and the child may be afforded visitation  
 27 opportunities, unless visitation with the parent is not in the  
 28 best interests of the child.

29 (8) A plan for ensuring the educational stability of the child while  
 30 in foster care that includes assurances that the:

31 (A) placement of the child in foster care considers the  
 32 appropriateness of the current educational setting of the child  
 33 and the proximity to the school where the child is presently  
 34 enrolled; ~~and~~

35 (B) department has coordinated with local educational  
 36 agencies to ensure:

37 (i) the child remains in the school where the child is enrolled  
 38 at the time of removal; or

39 (ii) immediate, appropriate enrollment of the child in a  
 40 different school, including arrangements for the transfer of  
 41 the child's school records to the new school, if remaining in  
 42 the same school is not in the best interests of the child; **and**



- 1                   **(C) child's school, or its representative, has been invited to**
- 2                   **participate in the case plan process.**
- 3           (9) Any age appropriate activities that the child is interested in
- 4           pursuing.
- 5           (10) If the case plan is for a child in foster care who is at least
- 6           fourteen (14) years of age, the following:
- 7           (A) A document that describes the rights of the child with
- 8           respect to:
- 9           (i) education, health, visitation, and court participation;
- 10           (ii) the right to be provided with the child's medical
- 11           documents and other medical information; and
- 12           (iii) the right to stay safe and avoid exploitation.
- 13           (B) A signed acknowledgment by the child that the:
- 14           (i) child has been provided with a copy of the document
- 15           described in clause (A); and
- 16           (ii) rights contained in the document have been explained to
- 17           the individual in an age appropriate manner.
- 18           (11) Any efforts made by the department to enable the child's
- 19           school to provide appropriate support to and protect the safety of
- 20           the child, if, in developing the case plan, the department
- 21           coordinates with officials in the child's school to enable the school
- 22           to provide appropriate support to and protect the safety of the
- 23           child.



## COMMITTEE REPORT

Mr. Speaker: Your Committee on Family, Children and Human Affairs, to which was referred House Bill 1531, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 17.

Delete page 2.

Page 3, delete lines 1 through 22.

Page 4, delete lines 41 through 42.

Page 5, delete lines 1 through 30.

Page 7, delete lines 15 through 42.

Delete pages 8 through 10.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1531 as introduced.)

DEVON

Committee Vote: yeas 8, nays 2.

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 HOUSE MOTION

Mr. Speaker: I move that House Bill 1531 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 31-9-2-44.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 44.1. "Exigent circumstances", as applied to an action by the department with regard to a child, means that:**

**(1) the department has definite and articulable evidence giving rise to a reasonable suspicion that the child or a child residing in the home with the child:**

**(A) has been abused or neglected; or**

**(B) is in imminent danger of abuse or neglect;**

**(2) there is no less intrusive alternative to the department's action that would reasonably and sufficiently protect the child's imminent health or safety; and**

EH 1531—LS 7288/DI 136





**(3) one (1) or more of the following applies:**

**(A) The parent, guardian, or custodian of the child:**

**(i) is the alleged perpetrator of the abuse or neglect of the child; or**

**(ii) is allegedly aware of the abuse or neglect of the child and has allegedly not ensured the child's safety.**

**(B) There is reason to believe that:**

**(i) the safety of the child might be jeopardized; or**

**(ii) essential evidence might not be available;**

**if the department's action is delayed or the child's parent, guardian, or custodian is notified before the department's action.**

**(C) The child is a homeless unaccompanied minor and is voluntarily receiving services at an emergency shelter or shelter care facility without THE presence or consent of the child's parent, guardian, or custodian."**

Renumber all SECTIONS consecutively.

(Reference is to HB 1531 as printed February 9, 2021.)

DEVON

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#### COMMITTEE REPORT

Madam President: The Senate Committee on Family and Children Services, to which was referred House Bill No. 1531, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 3, after "Sec. 44.1." insert "**(a)**".

Page 1, delete lines 8 through 9, begin a new line double block indented and insert:

**"(A) has been or is in imminent danger of being physically or sexually abused; or**

**(B) has been or is in imminent danger of being neglected in a manner that would lead a reasonable person to believe the child's physical safety is seriously endangered;".**

Page 2, between lines 11 and 12, begin a new paragraph and insert:

**"(b) An allegation of educational neglect does not qualify as an exigent circumstance."**

Page 2, line 29, delete "child." and insert "child:

EH 1531—LS 7288/DI 136



- (A) upon receiving parental consent;**
- (B) upon receiving a court order; or**
- (C) if there are exigent circumstances as defined by IC 31-9-2-44.1."**

Page 3, line 16, delete "the school" and insert "**the school, except a nonaccredited nonpublic school that has less than one (1) employee,**".

and when so amended that said bill do pass.

(Reference is to HB 1531 as reprinted February 19, 2021.)

GROOMS, Chairperson

Committee Vote: Yeas 9, Nays 0.

