

# SENATE BILL No. 1

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 31-9-2-129.5; IC 31-25-2-21; IC 31-28-5.8; IC 31-33-8-1; IC 31-34; IC 31-35-2.

**Synopsis:** Department of child services. Provides that an older youth who received foster care is eligible to receive collaborative care services until the individual becomes 21 years of age. Requires the department of child services (department) to initiate an assessment immediately, but not later than two hours (rather than one hour, under current law), after receiving a report of child abuse or neglect if the department believes the child is in immediate danger of serious bodily harm. Provides that a dispositional decree must require the department to continue exercising due diligence to identify all adult relatives of the child and adult siblings who may be considered as out-of-home placements for the child. Requires the department to include information: (1) concerning the department's continued effort to identify all adult relatives of the child and adult siblings who may be considered as out-of-home placements for the child; and (2) from a foster parent in a progress report prepared for a case review hearing or permanency hearing. Allows a foster parent, relative, or de facto custodian with whom a child has been placed for at least six months to file a petition to terminate the parent-child relationship (TPR) involving a delinquent child or a child in need of services if: (1) the child has been removed from a parent and has been under the supervision of the department for at least 15 months of the most recent 22 months; and (2) a petition for TPR has not been filed by the department, the child's court appointed special advocate, or the child's guardian ad litem. Provides that the best interests of the child must be considered in determining placement of an alleged child in need of  
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**Effective:** July 1, 2019.

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January 10, 2019, read first time and referred to Committee on Family and Children Services.

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services who has been taken into custody. Requires a court to consider certain factors when considering a petition to intervene filed in a child in need of services proceeding by a foster parent, long term foster parent, or a person who has been a foster parent of the child. Provides that before a child who was: (1) placed in an out-of-home placement; and (2) moved from the out-of-home placement to an in-home placement; may be returned to an out-of-home placement, the court and the department shall make a reasonable attempt to place the child in the previous out-of-home placement. Provides that a foster parent, relative of the child, or de facto custodian with whom the child has been placed for at least six months may file a notice with the court if a petition for TPR has not been filed concerning a child who has been removed from a parent and has been under the supervision of the department for 15 months of the most recent 22 months. Provides that if a notice is filed with the court, the court shall order the department to file a petition for TPR within 15 days of the order. Provides that the failure to obey the court order is punishable as contempt of court.



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.

## SENATE BILL No. 1

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 31-9-2-129.5, AS AMENDED BY P.L.48-2012,  
2 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2019]: Sec. 129.5. "Therapeutic foster family home", for  
4 purposes of IC 31-27, means a foster family home:  
5 (1) that provides care to:  
6 (A) a child; or  
7 (B) an individual at least eighteen (18) but less than ~~twenty~~  
8 ~~(20)~~ **twenty-one (21)** years of age receiving collaborative care  
9 under IC 31-28-5.8;  
10 who has serious emotional disturbances, significant behavioral  
11 health needs and functional impairments, or developmental or  
12 physical disabilities;  
13 (2) in which the child or individual receives treatment in a family  
14 home through an integrated array of services supervised and  
15 supported by qualified program staff from:



- 1 (A) the department of child services;
- 2 (B) a managed care provider that contracts with the division of
- 3 mental health and addiction; or
- 4 (C) a licensed child placing agency; and
- 5 (3) that meets the additional requirements of IC 31-27-4-2.
- 6 SECTION 2. IC 31-25-2-21, AS AMENDED BY P.L.124-2017,
- 7 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 8 JULY 1, 2019]: Sec. 21. (a) As used in this section, "transitional
- 9 services plan" means a plan that provides information concerning the
- 10 following to an individual described in subsection (b):
- 11 (1) Education.
- 12 (2) Employment.
- 13 (3) Housing.
- 14 (4) Health care, including information concerning the individual's
- 15 eligibility and participation in the Medicaid program.
- 16 (5) Development of problem solving skills.
- 17 (6) Available local, state, and federal financial assistance.
- 18 (b) The department shall implement a program that provides a
- 19 transitional services plan to the following:
- 20 (1) An individual who has become or will become:
- 21 (A) eighteen (18) years of age; or
- 22 (B) emancipated;
- 23 while receiving foster care.
- 24 (2) An individual who:
- 25 (A) is at least eighteen (18) but less than ~~twenty (20)~~
- 26 **twenty-one (21)** years of age; and
- 27 (B) is receiving collaborative care under IC 31-28-5.8.
- 28 (c) A transitional services plan for an individual described in
- 29 subsection (b) shall contain a document that:
- 30 (1) describes the rights of the individual with respect to:
- 31 (A) education, health, visitation, and court participation;
- 32 (B) the right to be provided with the individual's medical
- 33 documents and any other medical information; and
- 34 (C) the right to stay safe and avoid exploitation; and
- 35 (2) includes a signed acknowledgment by the individual that the:
- 36 (A) individual has been provided with a copy of the document
- 37 described in subdivision (1); and
- 38 (B) rights contained in the document have been explained to
- 39 the individual in an age appropriate manner.
- 40 (d) The individual's child representatives selected by the individual
- 41 under IC 31-34-15-7 or IC 31-37-19-1.7 may participate in the
- 42 development of a transitional services plan for the individual.



(e) The department, as part of the program described in this section, in cooperation with the office of Medicaid policy and planning, shall include, as part of the transitional services plan for an individual described in subsection (b), the enrollment of the individual in the Medicaid program.

(f) The department shall adopt rules under IC 4-22-2, including emergency rules under IC 4-22-2-37.1, necessary to implement the program described in this section.

SECTION 3. IC 31-28-5.8-4, AS AMENDED BY P.L.13-2013, SECTION 78, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 4. As used in this chapter, "older youth" means an individual who is at least eighteen (18) years of age but less than ~~twenty (20)~~ **twenty-one (21)** years of age.

SECTION 4. IC 31-28-5.8-5, AS AMENDED BY P.L.104-2015, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 5. (a) An older youth who received foster care under a court order on the day the individual attains eighteen (18) years of age is eligible to receive collaborative care services under applicable rules of the department at any time until the individual becomes ~~twenty (20)~~ **twenty-one (21)** years of age.

(b) An older youth may request the department to petition a juvenile court for approval of a collaborative care agreement under this chapter.

(c) A court may grant a petition described in subsection (b) if the court finds, consistent with applicable rules of the department, that the older youth is:

- (1) employed;
- (2) attending school or a vocational or educational certification or degree program;
- (3) participating in a program or activity designed to promote, or remove barriers to, employment; or
- (4) incapable of performing any of the activities in subdivisions (1) through (3) due to a medical condition documented by regularly updated information in the older youth's current case plan.

(d) A child who:

- (1) is at least seventeen (17) years and six (6) months of age;
- (2) is receiving foster care under a court order; and
- (3) expects to be eligible for collaborative care under this chapter when the child becomes an older youth;

may request the department to start the process of planning for collaborative care under this chapter.

SECTION 5. IC 31-33-8-1, AS AMENDED BY P.L.205-2013,



SECTION 339, IS AMENDED TO READ AS FOLLOWS  
 [EFFECTIVE JULY 1, 2019]: Sec. 1. (a) The department shall initiate  
 an appropriately thorough child protection assessment of every report  
 of known or suspected child abuse or neglect the department receives,  
 whether in accordance with this article or otherwise.

(b) If a report of known or suspected child abuse or neglect is  
 received from a judge or prosecutor requesting the department to  
 initiate a child protection assessment, the department shall initiate an  
 assessment in accordance with this section.

(c) If a report of known or suspected child abuse or neglect is  
 received from:

- (1) medical personnel;
- (2) school personnel;
- (3) a social worker;
- (4) law enforcement officials or personnel;
- (5) judiciary personnel; or
- (6) prosecuting attorney personnel;

the department shall forward the report to the local office to determine  
 if the department will initiate an assessment in accordance with this  
 section.

(d) If the department believes that a child is in imminent danger of  
 serious bodily harm, the department shall initiate an onsite assessment  
 immediately, but not later than ~~one (1) hour~~; **two (2) hours**, after  
 receiving the report.

(e) If the report alleges a child may be a victim of child abuse, the  
 assessment shall be initiated immediately, but not later than  
 twenty-four (24) hours after receipt of the report.

(f) If reports of child neglect are received, the assessment shall be  
 initiated within a reasonably prompt time, but not later than five (5)  
 days, with the primary consideration being the well-being of the child  
 who is the subject of the report.

(g) If the report alleges that a child lives with a parent, guardian, or  
 custodian who is married to or lives with a person who:

- (1) has been convicted of:
  - (A) neglect of a dependent under IC 35-46-1-4; or
  - (B) a battery offense under IC 35-42-4; or
- (2) is required to register as a sex or violent offender under  
 IC 11-8-8;

the department shall initiate an assessment within a reasonably prompt  
 time, but not later than five (5) days after the department receives the  
 report, with the primary consideration being the well-being of the child  
 who is the subject of the report.



(h) If the safety or well-being of a child appears to be endangered or the facts otherwise warrant, the assessment shall be initiated regardless of the time of day.

(i) If a report alleges abuse or neglect and involves a child care ministry that is exempt from licensure under IC 12-17.2-6, the department and the appropriate law enforcement agency shall jointly conduct an investigation. The investigation shall be conducted under the requirements of this section and section 2(b) of this chapter.

SECTION 6. IC 31-34-4-2, AS AMENDED BY P.L.183-2017, SECTION 42, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 2. (a) If a child alleged to be a child in need of services is taken into custody under an order of the court under this chapter and the court orders out-of-home placement, the department is responsible for that placement and care and must consider placing the child with a:

(1) suitable and willing relative; or

(2) de facto custodian;

before considering any other out-of-home placement. **In determining placement of the child, the department shall consider the best interests of the child.**

(b) The department shall consider placing a child described in subsection (a) with a relative related by blood, marriage, or adoption before considering any other placement of the child. **In determining placement of the child, the department shall consider the best interests of the child.**

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

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

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

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

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

(f) The department is not required to conduct a criminal history



check under subsection (d) if the department makes an out-of-home placement to an entity or a facility that is not a residence (as defined in IC 3-5-2-42.5) or that is licensed by the state.

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

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

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

(B) been convicted of:

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

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

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

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

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

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

(vii) a felony under IC 9-30-5; or

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

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

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

(2) the person's commission of the offense, delinquent act, or act of abuse or neglect described in subdivision (1) is not relevant to the person's present ability to care for a child, and the placement is in the best interest of the child.

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

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

(1) The length of time since the person committed the offense, delinquent act, or abuse or neglect.

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

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

**(i) In determining any out-of-home placement under this section, the best interests of the child must be balanced with**





1 **maintaining the most family like setting available. A court is not**  
 2 **required to place a child in an out-of-home placement under this**  
 3 **section if it finds that the placement would be contrary to the**  
 4 **child's best interests.**

5 SECTION 7. IC 31-34-6-2, AS AMENDED BY P.L.123-2014,  
 6 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 7 JULY 1, 2019]: Sec. 2. (a) A juvenile court or the department shall  
 8 consider placing a child alleged to be a child in need of services with  
 9 a suitable and willing relative or de facto custodian of the child before  
 10 considering any other placement for the child. **In determining**  
 11 **placement of the child, the juvenile court or the department shall**  
 12 **consider the best interests of the child.**

13 (b) A juvenile court or the department shall consider placing a child  
 14 described in subsection (a) with a relative related by blood, marriage,  
 15 or adoption before considering any other placement of the child. **In**  
 16 **determining placement of the child, the juvenile court or the**  
 17 **department shall consider the best interests of the child.**

18 (c) Before a child is placed with a relative or de facto custodian, a  
 19 home evaluation and background checks described in IC 31-34-4-2 are  
 20 required.

21 SECTION 8. IC 31-34-18-2, AS AMENDED BY P.L.146-2008,  
 22 SECTION 598, IS AMENDED TO READ AS FOLLOWS  
 23 [EFFECTIVE JULY 1, 2019]: Sec. 2. (a) In addition to providing the  
 24 court with a recommendation for the care, treatment, or rehabilitation  
 25 of the child, the person preparing the report shall consider the  
 26 necessity, nature, and extent of the participation by a parent, guardian,  
 27 or custodian in a program of care, treatment, or rehabilitation for the  
 28 child.

29 (b) If the department or caseworker believes that an out-of-home  
 30 placement would be appropriate for a child in need of services, the  
 31 department or caseworker shall:

32 **(1) exercise due diligence to identify all adult relatives of the**  
 33 **child and adult siblings; and**

34 **(2) consider whether the child should be placed with the child's**  
 35 **suitable and willing blood or adoptive relative caretaker,**  
 36 **including a grandparent, an aunt, an uncle, or an adult sibling,**  
 37 **before considering other out-of-home placements for the child.**

38 SECTION 9. IC 31-34-19-7, AS AMENDED BY P.L.123-2014,  
 39 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 40 JULY 1, 2019]: Sec. 7. (a) In addition to the factors under section 6 of  
 41 this chapter, if the court enters a dispositional decree regarding a child  
 42 in need of services that includes an out-of-home placement, the court



shall:

**(1) order the department to continue exercising due diligence to identify all adult relatives of the child and adult siblings who may be considered as out-of-home placements for the child until the child has been in an out-of-home placement for at least twelve (12) months; and**

**(2) consider whether the child should be placed with the child's suitable and willing relative before considering other out-of-home placements for the child.**

(b) A juvenile court shall consider placing a child described in subsection (a) with a relative related by blood, marriage, or adoption before considering any other placement of the child.

(c) Before a child is placed with a relative or de facto custodian, a home evaluation and background checks described in IC 31-34-4-2 are required.

SECTION 10. IC 31-34-21-4.5, AS AMENDED BY P.L.183-2017, SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 4.5. (a) Except as provided in subsection (b), a foster parent, long term foster parent, or a person who has been a foster parent may petition the court to request intervention as a party to a proceeding described in this chapter.

(b) A foster parent who has been:

(1) the subject of a substantiated report of child abuse or neglect; or

(2) convicted of a nonwaivable offense, as defined in IC 31-9-2-84.8;

may not petition the court to intervene under this section.

(c) A court may grant a petition filed under this section if the court determines that intervention of the petitioner is in the best interests of the child.

**(d) In making the determination under subsection (c), the court shall consider at least the following:**

**(1) Whether the petitioner has also filed a petition to adopt under IC 31-19-2-2 concerning the child who is the subject of the child in need of services proceeding.**

**(2) Whether a petition to terminate the parent-child relationship under IC 31-35-2-4 has been filed concerning the child who is the subject of the child in need of services proceeding.**

**(3) Whether the child who is the subject of the child in need of services proceeding has been placed with the petitioner for at least six (6) months.**



SECTION 11. IC 31-34-21-4.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 4.6. As used in this section, "long term foster parent" means a foster parent who has provided care and supervision for a child: ~~for at least:~~

- (1) **for at least** the twelve (12) most recent months; ~~or~~
- (2) **for at least** fifteen (15) months of the most recent twenty-two (22) months; ~~or~~
- (3) **if the child is less than twelve (12) months old, for the majority of the child's life.**

SECTION 12. IC 31-34-21-5.5, AS AMENDED BY P.L.48-2012, SECTION 64, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 5.5. (a) In determining the extent to which reasonable efforts to reunify or preserve a family are appropriate under this chapter, the child's health and safety are of paramount concern.

(b) Except as provided in section 5.6 of this chapter, the department shall make reasonable efforts to preserve and reunify families as follows:

- (1) If a child has not been removed from the child's home, to prevent or eliminate the need for removing the child from the child's home.
- (2) If a child has been removed from the child's home, to make it possible for the child to return safely to the child's home as soon as possible **consistent with the best interests of the child.**

(c) The department may, before reunification of the child with a parent, guardian, or custodian, conduct a criminal history check (as defined in IC 31-9-2-22.5) of:

- (1) the child's:
  - (A) parent;
  - (B) guardian; or
  - (C) custodian; or
- (2) a household member of the:
  - (A) parent;
  - (B) guardian; or
  - (C) custodian.

(d) The department may use the results of a criminal history check conducted under subsection (c) to decide whether it is safe for the child to return home.

SECTION 13. IC 31-34-22-1, AS AMENDED BY P.L.146-2008, SECTION 610, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 1. (a) Before a case review under IC 31-34-21-2 or hearing under IC 31-34-21-7, the department shall prepare a report on the progress made in implementing the



dispositional decree, including the progress made in rehabilitating the child, preventing placement out-of-home, or reuniting the family.

(b) ~~Before~~ **When** preparing the report required by subsection (a), **if the child is placed in foster care**, the department shall consult ~~a~~ the foster parent of the child about the child's progress made while in the foster parent's care. **The department shall include as part of the report a foster parent information and recommendation form described in subsection (e) that is completed by the foster parent.**

(c) If modification of the dispositional decree is recommended, the department shall prepare a modification report containing the information required by IC 31-34-18 and request a formal court hearing.

(d) **If the child has been removed from the child's home for less than twelve (12) months, a report described in subsection (a) must include an explanation of the department's ongoing effort to identify all adult relatives of the child and adult siblings who may be considered as out-of-home placements for the child.**

(e) The department shall develop a foster parent information and recommendation form to be submitted to the court with a report described in subsection (a). The form must include information from the foster parent of a child concerning the child's progress made while in the foster parent's care and the foster parent's recommendations, including services and placement recommendations, for the child.

SECTION 14. IC 31-34-23-5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 5. (a) Except as provided in subsection (c), if a child who was:

(1) placed in an out-of-home placement during child in need of services proceedings; and

(2) moved from the out-of-home placement to an in-home placement;

is returned to an out-of-home placement, the court and the department shall make a reasonable attempt to place the child in the out-of-home placement in which the child was placed under subdivision (1).

(b) If a child described in subsection (a) has been placed in more than one (1) out-of-home placement before being removed from the in-home placement described in subsection (a)(2), the court and the department shall place the child in the out-of-home placement that is in the best interests of the child.

(c) Except as provided in subsection (d), the department may



not make an out-of-home placement if a person residing in the location of an out-of-home placement described in subsection (a) has:

- (1) committed an act resulting in a substantiated report of child abuse or neglect; or
- (2) been convicted of a nonwaivable offense, as defined in IC 31-9-2-84.8, or had a juvenile adjudication for an act that would be a nonwaivable offense, as defined in IC 31-9-2-84.8, if committed by an adult.

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

- (1) a person described in subsection (c) has:
  - (A) committed an act resulting in a substantiated report of child abuse or neglect;
  - (B) been convicted of:
    - (i) battery (IC 35-42-2-1);
    - (ii) criminal confinement (IC 35-42-3-3) as a felony;
    - (iii) carjacking (IC 35-42-5-2) (repealed) as a felony;
    - (iv) arson (IC 35-43-1-1) as a felony;
    - (v) a felony involving a weapon under IC 35-47 or IC 35-47.5;
    - (vi) a felony relating to controlled substances under IC 35-48-4;
    - (vii) a felony under IC 9-30-5; or
    - (viii) a felony that is substantially equivalent to a felony listed in this clause for which the conviction was entered in another jurisdiction;
  - if the conviction did not occur within the past five (5) years; or
  - (C) had a juvenile adjudication for a nonwaivable offense, as defined in IC 31-9-2-84.8, that, if committed by an adult, would be a felony; and
- (2) the person's commission of the offense, delinquent act, or act of abuse or neglect described in subdivision (1) is not relevant to the person's present ability to care for a child, and the placement is in the best interest of the child.

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

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



**(1) The length of time since the person committed the offense, delinquent act, or abuse or neglect.**

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

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

SECTION 15. IC 31-35-2-4, AS AMENDED BY P.L.42-2017, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 4. (a) A petition to terminate the parent-child relationship involving a delinquent child or a child in need of services may be signed and filed with the juvenile or probate court by any of the following:

(1) The attorney for the department.

(2) The child's court appointed special advocate.

(3) The child's guardian ad litem.

**(4) A foster parent, relative of the child, or de facto custodian with whom the child has been placed for at least six (6) months if:**

**(A) the child has been placed in:**

**(i) a foster family home, child caring institution, or group home licensed under IC 31-27; or**

**(ii) the home of a relative (as defined in IC 31-9-2-107(c));**

**as directed by a court in a child in need of services proceeding under IC 31-34 or a delinquency action under IC 31-37;**

**(B) the child has been removed from a parent and has been under the supervision of the department or county probation department for not less than fifteen (15) months of the most recent twenty-two (22) months, beginning with the date the child is removed from the home as a result of the child being alleged to be a child in need of services or a delinquent child; and**

**(C) a petition has not been filed by a person described in subdivisions (1) through (3).**

**A copy of the petition filed under this subdivision must be provided to the attorney for the department at the time of filing.**

(b) The petition must meet the following requirements:

(1) The petition must be entitled "In the Matter of the Termination of the Parent-Child Relationship of \_\_\_\_\_, a child, and \_\_\_\_\_, the child's parent (or parents)".



(2) The petition must allege:

(A) that one (1) of the following is true:

(i) The child has been removed from the parent for at least six (6) months under a dispositional decree.

(ii) A court has entered a finding under IC 31-34-21-5.6 that reasonable efforts for family preservation or reunification are not required, including a description of the court's finding, the date of the finding, and the manner in which the finding was made.

(iii) The child has been removed from the parent and has been under the supervision of a local office or probation department for at least fifteen (15) months of the most recent twenty-two (22) months, beginning with the date the child is removed from the home as a result of the child being alleged to be a child in need of services or a delinquent child;

(B) that one (1) of the following is true:

(i) There is a reasonable probability that the conditions that resulted in the child's removal or the reasons for placement outside the home of the parents will not be remedied.

(ii) There is a reasonable probability that the continuation of the parent-child relationship poses a threat to the well-being of the child.

(iii) The child has, on two (2) separate occasions, been adjudicated a child in need of services;

(C) that termination is in the best interests of the child; and

(D) that there is a satisfactory plan for the care and treatment of the child.

(3) If the department intends to file a motion to dismiss under section 4.5 of this chapter, the petition must indicate whether at least one (1) of the factors listed in section 4.5(d)(1) through 4.5(d)(3) of this chapter applies and specify each factor that would apply as the basis for filing a motion to dismiss the petition.

(c) At the time the petitioner files the verified petition described in subsection (b) with the juvenile or probate court, the petitioner shall also file a:

(1) copy of the order approving the permanency plan under IC 31-34-21-7 for the child; or

(2) permanency plan for the child as described by IC 31-34-21-7.5.

SECTION 16. IC 31-35-2-4.5, AS AMENDED BY P.L.5-2015,



SECTION 65, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 4.5. (a) This section applies if:

- (1) a court has made a finding under IC 31-34-21-5.6 that reasonable efforts for family preservation or reunification with respect to a child in need of services are not required; or
- (2) a child in need of services or a delinquent child:

(A) has been placed in:

(i) a foster family home, child caring institution, or group home licensed under IC 31-27; or

(ii) the home of a relative (as defined in IC 31-9-2-107(c)); as directed by a court in a child in need of services proceeding under IC 31-34 or a delinquency action under IC 31-37; and

(B) has been removed from a parent and has been under the supervision of the department or county probation department for not less than fifteen (15) months of the most recent twenty-two (22) months, beginning with the date the child is removed from the home as a result of the child being alleged to be a child in need of services or a delinquent child.

(b) A person described in section 4(a) of this chapter shall:

- (1) file a petition to terminate the parent-child relationship under section 4 of this chapter; and
- (2) request that the petition be set for hearing.

(c) If a petition under subsection (b) is filed by the child's court appointed special advocate or guardian ad litem, the department shall be joined as a party to the petition.

(d) A person described in section 4(a) of this chapter may file a motion to dismiss the petition to terminate the parent-child relationship if any of the following circumstances apply:

- (1) That the current case plan prepared by or under the supervision of the department or the probation department under IC 31-34-15, IC 31-37-19-1.5, or IC 31-37-22-4.5 has documented a compelling reason, based on facts and circumstances stated in the petition or motion, for concluding that filing, or proceeding to a final determination of, a petition to terminate the parent-child relationship is not in the best interests of the child. A compelling reason may include the fact that the child is being cared for by a custodian who is a relative (as defined in IC 31-9-2-107(c)).

(2) That:

(A) IC 31-34-21-5.6 is not applicable to the child;

(B) the department or the probation department has not provided family services to the child, parent, or family of the





child in accordance with a currently effective case plan prepared under IC 31-34-15 or IC 31-37-19-1.5 or a permanency plan or dispositional decree approved under IC 31-34 or IC 31-37, for the purpose of permitting and facilitating safe return of the child to the child's home; and (C) the period for completion of the program of family services, as specified in the current case plan, permanency plan, or decree, has not expired.

(3) That:

(A) IC 31-34-21-5.6 is not applicable to the child;

(B) the department has not provided family services to the child, parent, or family of the child, in accordance with applicable provisions of a currently effective case plan prepared under IC 31-34-15 or IC 31-37-19-1.5, or a permanency plan or dispositional decree approved under IC 31-34 or IC 31-37; and

(C) the services that the department has not provided are substantial and material in relation to implementation of a plan to permit safe return of the child to the child's home.

The motion to dismiss shall specify which of the allegations described in subdivisions (1) through (3) apply to the motion. If the court finds that any of the allegations described in subdivisions (1) through (3) are true, as established by a preponderance of the evidence, the court shall dismiss the petition to terminate the parent-child relationship.

**(e) If:**

**(1) a child in need of services or a delinquent child has been removed from a parent and has been under the supervision of the department or county probation department for not less than fifteen (15) months of the most recent twenty-two (22) months, beginning with the date the child is removed from the home as a result of the child being alleged to be a child in need of services or a delinquent child; and**

**(2) a petition to terminate the parent-child relationship has not been filed by the department or another person described in section 4(a) of this chapter;**

**a foster parent, relative of the child, or de facto custodian with whom the child has been placed for at least six (6) months may file a notice with the court that the petition to terminate the parent-child relationship has not been filed as required under subsection (b). Upon the filing of the notice, if the petition to terminate the parent-child relationship has not been filed, the court shall order the department to file a petition to terminate the**



- 1 **parent-child relationship within fifteen (15) days of the order.**
- 2 **Failure to obey the court order is punishable as contempt of court.**

