



Reprinted
February 22, 2019

SENATE BILL No. 1

DIGEST OF SB 1 (Updated February 21, 2019 2:52 pm - DI 104)

Citations Affected: IC 31-9; IC 31-10; IC 31-19; IC 31-25; IC 31-27; IC 31-32; IC 31-34; IC 31-35; noncode.

Synopsis: Department of child services. States that a court shall determine that consent to adoption is not required from the parent if the parent is convicted of crimes in another state that are substantially similar to specified crimes. Specifies that all decisions made by the department of child services (department) in specified statutes shall be made in consideration of the best interests of the child. Requires the department to implement and make available telephone contacts for family case managers to provide access to assistance in finding suitable placement for a child. Allows the department to waive the limits on the number of children who may be placed in a single foster home in certain circumstances. Provides that a dispositional decree must require
(Continued next page)

Effective: July 1, 2019.

**Houchin, Head, Charbonneau, Melton, Rogers,
Mrvan, Randolph Lonnie M, Merritt, Doriot,
Niezgodski, Walker, Buck, Ford J.D., Becker, Koch,
Kruse, Perfect, Bassler, Crider, Young M, Buchanan,
Ruckelshaus, Brown L, Alting, Leising, Freeman, Crane,
Bohacek, Zay, Glick, Messmer, Mishler, Holdman,
Taylor G, Spartz, Busch, Garten, Raatz, Breaux, Lanane,
Niemeyer, Ford Jon, Bray, Grooms, Boots**

January 10, 2019, read first time and referred to Committee on Family and Children Services.
February 12, 2019, amended, reported favorably — Do Pass.
February 21, 2019, read second time, amended, ordered engrossed.

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Digest Continued

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. Requires the department and the office of judicial administration (office) to prepare a form that may be used to provide written testimony by certain individuals and allows foster parents to provide written testimony in a format other than the form. Provides for a right to intervene by a foster parent, long term foster parent, or a person who has been a foster parent of the child in a child in need of services proceeding and a termination of parent-child relationship proceeding and sets forth hearing requirements on the petition to intervene. 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 to terminate the parent-child relationship (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 schedule a hearing within 30 days. Requires the department and the office to jointly provide a report before July 1, 2020, to the general assembly on information concerning the progress in: (1) training and technical assistance to judicial officers on foster parents' statutory rights to be heard by the court; and (2) improving opportunities for foster parents to provide oral and written testimony to the court.



Reprinted
February 22, 2019

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 31-9-2-76.5 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 76.5. "Long term foster
3 parent", for purposes of ~~IC 31-34-21-4 and IC 31-34-21-4.5~~, has the
4 meaning set forth in ~~IC 31-34-21-4.6~~. **IC 31-32-2.5 and IC 31-34-21,**
5 **means a foster parent who has provided care and supervision for**
6 **a child:**
7 **(1) for at least twelve (12) months;**
8 **(2) for at least fifteen (15) months of the most recent**
9 **twenty-two (22) months; or**
10 **(3) if the child is less than twelve (12) months of age, for at**
11 **least six (6) months.**
12 SECTION 2. IC 31-10-2-2 IS ADDED TO THE INDIANA CODE
13 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
14 1, 2019]: **Sec. 2. For purposes of:**
15 **(1) IC 31-33;**

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1 **(2) IC 31-34; and**
 2 **(3) IC 31-35;**
 3 **all decisions made by the department or the court shall be made in**
 4 **consideration of the best interests of the child or children**
 5 **concerned.**

6 SECTION 3. IC 31-19-9-10, AS AMENDED BY P.L.65-2016,
 7 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 8 JULY 1, 2019]: Sec. 10. A court shall determine that consent to
 9 adoption is not required from a parent if:

10 (1) the parent is convicted of and incarcerated at the time of the
 11 filing of a petition for adoption for:

12 (A) murder (IC 35-42-1-1);

13 (B) causing suicide (IC 35-42-1-2);

14 (C) voluntary manslaughter (IC 35-42-1-3);

15 (D) rape (IC 35-42-4-1);

16 (E) criminal deviate conduct (IC 35-42-4-2) (before its repeal);

17 (F) child molesting (IC 35-42-4-3) as a:

18 (i) Class A or Class B felony, for a crime committed before
 19 July 1, 2014; or

20 (ii) Level 1, Level 2, Level 3, or Level 4 felony, for a crime
 21 committed after June 30, 2014;

22 (G) incest (IC 35-46-1-3) as a:

23 (i) Class B felony, for a crime committed before July 1,
 24 2014; or

25 (ii) Level 4 felony, for a crime committed after June 30,
 26 2014;

27 (H) neglect of a dependent (IC 35-46-1-4) as a:

28 (i) Class B felony, for a crime committed before July 1,
 29 2014; or

30 (ii) Level 1 or Level 3 felony, for a crime committed after
 31 June 30, 2014;

32 (I) battery (IC 35-42-2-1) of a child as a:

33 (i) Class C felony, for a crime committed before July 1,
 34 2014; or

35 (ii) Level 5 felony, for a crime committed after June 30,
 36 2014;

37 (J) battery (IC 35-42-2-1) as a:

38 (i) Class A or Class B felony, for a crime committed before
 39 July 1, 2014; or

40 (ii) Level 2, Level 3, or Level 4 felony, for a crime
 41 committed after June 30, 2014;

42 (K) domestic battery (IC 35-42-2-1.3) as a Level 5, Level 4,



- 1 Level 3, or Level 2 felony;
 2 (L) aggravated battery (IC 35-42-2-1.5) as a Level 3 or Level
 3 1 felony; ~~or~~
 4 (M) an attempt under IC 35-41-5-1 to commit an offense
 5 described in this subdivision; **or**
 6 **(N) a crime in another state that is substantially similar to**
 7 **a crime described in clauses (A) through (M);**
 8 (2) the child or the child's sibling, half-blood sibling, or
 9 step-sibling of the parent's current marriage is the victim of the
 10 offense; and
 11 (3) after notice to the parent and a hearing, the court determines
 12 that dispensing with the parent's consent to adoption is in the
 13 child's best interests.

14 SECTION 4. IC 31-25-6 IS ADDED TO THE INDIANA CODE AS
 15 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
 16 1, 2019]:

17 **Chapter 6. Family Case Manager Assistance**

18 **Sec. 1. The department shall implement and make available**
 19 **telephone contacts for family case managers for the purpose of**
 20 **providing access to assistance in finding a relative, foster, or other**
 21 **suitable placement for a child.**

22 **Sec. 2. The telephone contacts required by section 1 of this**
 23 **chapter must meet the following requirements:**

24 **(1) Be available to family case managers statewide.**

25 **(2) Be able to provide assistance and be available on a**
 26 **twenty-four (24) hour, seven (7) day per week basis.**

27 SECTION 5. IC 31-27-4-8, AS AMENDED BY P.L.12-2018,
 28 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 29 JULY 1, 2019]: Sec. 8. (a) An applicant may not provide supervision
 30 and care as a foster family home if more than:

31 (1) six (6) individuals, each of whom:

32 (A) is less than eighteen (18) years of age; or

33 (B) is at least eighteen (18) years of age and is receiving care
 34 and supervision under an order of a juvenile court; or

35 (2) four (4) individuals less than six (6) years of age;

36 including the children or individuals for whom the provider is a
 37 relative, guardian, or custodian, receive care and supervision at the
 38 facility at the same time.

39 (b) Not more than four (4) of the six (6) individuals in subsection
 40 (a)(1) may be less than six (6) years of age.

41 (c) The department may grant an exception to this section whenever
 42 the department determines that:

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- 1 (1) the placement of siblings in the same foster family home is
2 desirable;
- 3 (2) a foster child has an established, meaningful relationship with
4 the foster parents; ~~or~~
- 5 **(3) the:**
- 6 **(A) child is being placed in the foster family home for a**
7 **second or subsequent time under IC 31-34-23-5;**
- 8 **(B) placement would not cause the foster family home to be**
9 **out of compliance with federal law; and**
- 10 **(C) department determines that the placement would not**
11 **present a safety risk for the child or for any other resident**
12 **of the foster family home; or**
- 13 **(4) it is otherwise in the foster child's best interests.**
- 14 (d) If a foster family home does not meet the requirements under
15 subsection (a) on July 1, 2011, any foster child placed in the home prior
16 to July 1, 2011, may remain placed. However, a new placement of a
17 child may not be made in violation of this section.
- 18 SECTION 6. IC 31-32-2.5 IS ADDED TO THE INDIANA CODE
19 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
20 JULY 1, 2019]:
- 21 **Chapter 2.5. Right to Intervene in CHINS Proceedings and**
22 **Termination of Parent-Child Relationship Proceedings**
- 23 **Sec. 1. (a) Except as provided in subsection (b) and subject to**
24 **this chapter, a:**
- 25 **(1) foster parent;**
26 **(2) long term foster parent; or**
27 **(3) person who has been a foster parent;**
- 28 **of a child may petition the court to request intervention as a party**
29 **during any stage of a child in need of services proceeding under**
30 **IC 31-34 or a termination of parent-child relationship proceeding**
31 **under IC 31-35 concerning the child.**
- 32 **(b) Any person described in subsection (a) who has been:**
- 33 **(1) the subject of a substantiated report of child abuse or**
34 **neglect; or**
35 **(2) convicted of a nonwaivable offense, as defined in**
36 **IC 31-9-2-84.8;**
- 37 **may not petition the court to intervene under this chapter.**
- 38 **Sec. 2. (a) Except as provided in subsection (b) or (c), a court**
39 **may grant or deny a petition filed under this chapter with or**
40 **without a hearing on the petition.**
- 41 **(b) This subsection applies to a CHINS proceeding. If the**
42 **petitioner to intervene under this chapter is a long term foster**



1 parent and:

2 (1) the petition is to intervene in a proceeding to terminate the
3 parent-child relationship under IC 31-35-2-4;

4 (2) the petitioner has filed a petition to adopt the child under
5 IC 31-19-2-2; or

6 (3) the court ordered permanency plan for the child is no
7 longer reunification;

8 the court shall hold a hearing on a petition to intervene under this
9 chapter before a court may grant or deny a petition under this
10 chapter.

11 (c) This subsection applies to a termination of parent-child
12 relationship proceeding. If the petitioner to intervene under this
13 chapter is a long term foster parent, the court shall hold a hearing
14 on a petition to intervene under this chapter before a court may
15 grant or deny a petition under this chapter.

16 **Sec. 3. A court shall grant a petition to intervene filed under this**
17 **chapter if the court determines that intervention by the petitioner**
18 **is in the best interests of the child.**

19 SECTION 7. IC 31-34-18-2, AS AMENDED BY P.L.146-2008,
20 SECTION 598, IS AMENDED TO READ AS FOLLOWS
21 [EFFECTIVE JULY 1, 2019]: Sec. 2. (a) In addition to providing the
22 court with a recommendation for the care, treatment, or rehabilitation
23 of the child, the person preparing the report shall consider the
24 necessity, nature, and extent of the participation by a parent, guardian,
25 or custodian in a program of care, treatment, or rehabilitation for the
26 child.

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

30 (1) exercise due diligence to identify all adult relatives of the
31 child and adult siblings; and

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

36 SECTION 8. IC 31-34-18-6.1, AS AMENDED BY P.L.66-2015,
37 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
38 JULY 1, 2019]: Sec. 6.1. (a) The predispositional report prepared by
39 the department or caseworker must include the following information:

40 (1) A description of all dispositional options considered in
41 preparing the report.

42 (2) An evaluation of each of the options considered in relation to



1 the plan of care, treatment, rehabilitation, or placement
 2 recommended under the guidelines described in section 4 of this
 3 chapter.

4 **(3) A description of the due diligence efforts that the**
 5 **department has made to identify all adult relatives of the**
 6 **child.**

7 ~~(3)~~ **(4)** The name, occupation and position, and any relationship
 8 to the child of each person with whom the preparer of the report
 9 conferred as provided in section 1.1 of this chapter.

10 ~~(4)~~ **(5)** The report and recommendations of the dual status
 11 assessment team if the child is a dual status child under IC 31-41.

12 (b) If the department or caseworker is considering an out-of-home
 13 placement, including placement with a blood or an adoptive relative
 14 caretaker, the department or caseworker shall conduct a criminal
 15 history check (as defined in IC 31-9-2-22.5) for each person who is
 16 currently residing in the location designated as the out-of-home
 17 placement. The results of the criminal history check must be included
 18 in the predispositional report.

19 (c) The department or caseworker is not required to conduct a
 20 criminal history check under this section if:

21 (1) the department or caseworker is considering only a
 22 out-of-home placement to an entity or a facility that:

23 (A) is not a residence (as defined in IC 3-5-2-42.5); or

24 (B) is licensed by the state; or

25 (2) placement under this section is undetermined at the time the
 26 predispositional report is prepared.

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

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

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

41 (b) A juvenile court shall consider placing a child described in
 42 subsection (a) with a relative related by blood, marriage, or adoption



1 before considering any other placement of the child.

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

5 SECTION 10. IC 31-34-21-4, AS AMENDED BY P.L.128-2012,
6 SECTION 167, IS AMENDED TO READ AS FOLLOWS
7 [EFFECTIVE JULY 1, 2019]: Sec. 4. (a) Except as provided in
8 subsection (f), at least seven (7) days before the periodic case review,
9 including a case review that is a permanency hearing under section 7
10 of this chapter, the department shall provide notice of the review to
11 each of the following:

12 (1) The child's parent, guardian, or custodian.

13 (2) An attorney who has entered an appearance on behalf of the
14 child's parent, guardian, or custodian.

15 (3) A prospective adoptive parent named in a petition for adoption
16 of the child filed under IC 31-19-2 if:

17 (A) each consent to adoption of the child that is required under
18 IC 31-19-9-1 has been executed in the form and manner
19 required by IC 31-19-9 and filed with the local office;

20 (B) the court having jurisdiction in the adoption case has
21 determined under any applicable provision of IC 31-19-9 that
22 consent to adoption is not required from a parent, guardian, or
23 custodian; or

24 (C) a petition to terminate the parent-child relationship
25 between the child and any parent who has not executed a
26 written consent to adoption under IC 31-19-9-2 has been filed
27 under IC 31-35 and is pending.

28 (4) The child's foster parent or long term foster parent.

29 (5) Any other person who:

30 (A) the department has knowledge is currently providing care
31 for the child; and

32 (B) is not required to be licensed under IC 12-17.2 or IC 31-27
33 to provide care for the child.

34 (6) Any other suitable relative or person whom the department
35 knows has had a significant or caretaking relationship to the child.

36 (b) The department shall present proof of service of the notice
37 required by subsection (a) at the periodic case review.

38 (c) The department shall provide notices under this section as
39 provided in IC 31-32-1-4.

40 (d) The court shall provide to a person described in subsection (a)
41 an opportunity to be heard and to make any recommendations to the
42 court in a periodic case review, including a permanency hearing under



1 section 7 of this chapter. The right to be heard and to make
2 recommendations under this subsection includes:

- 3 (1) the right of a person described in subsection (a) to submit a
4 written statement to the court that, if served upon all parties to the
5 child in need of services proceeding and the persons described in
6 subsection (a), may be made a part of the court record; and
7 (2) the right to present oral testimony to the court and cross
8 examine any of the witnesses at the hearing.

9 **(e) The department and the office of judicial administration, in
10 collaboration with foster parents and other stakeholders, shall
11 prepare a form that may be used to provide written testimony to
12 the court under this section. The department shall post the form on
13 the department's Internet web site. Foster parents may provide
14 written testimony to the court in a format other than the form
15 described in this subsection.**

16 ~~(e)~~ **(f)** Except as provided in subsection ~~(f)~~; **(g)**, this section does not
17 exempt the department from sending a notice of the review to each
18 party to the child in need of services proceeding.

19 ~~(f)~~ **(g)** If the parent of an abandoned child does not disclose the
20 parent's name as allowed by IC 31-34-2.5-1(c), the parent is not
21 required to be notified of a proceeding described in subsection (a).

22 SECTION 11. IC 31-34-21-4.5, AS AMENDED BY P.L.183-2017,
23 SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
24 JULY 1, 2019]: Sec. 4.5. **(a) Except as provided in subsection (b) A
25 foster parent, long term foster parent, or a person who has been a foster
26 parent may petition the court to request intervention as a party to a
27 proceeding described in this chapter. as set forth in IC 31-32-2.5.**

28 **(b) A foster parent who has been:**

- 29 (1) the subject of a substantiated report of child abuse or neglect;
30 or
31 (2) convicted of a nonwaivable offense, as defined in
32 IC 31-9-2-84.8;

33 may not petition the court to intervene under this section.

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

37 SECTION 12. IC 31-34-21-4.6 IS REPEALED [EFFECTIVE JULY
38 1, 2019]. Sec. 4.6. As used in this section, "long term foster parent"
39 means a foster parent who has provided care and supervision for a child
40 for at least:

- 41 (1) the twelve (12) most recent months; or
42 (2) fifteen (15) months of the most recent twenty-two (22)



1 months:

2 SECTION 13. IC 31-34-22-1, AS AMENDED BY P.L.146-2008,
3 SECTION 610, IS AMENDED TO READ AS FOLLOWS
4 [EFFECTIVE JULY 1, 2019]: Sec. 1. (a) Before a case review under
5 IC 31-34-21-2 or hearing under IC 31-34-21-7, the department shall
6 prepare a report on the progress made in implementing the
7 dispositional decree, including the progress made in rehabilitating the
8 child, preventing placement out-of-home, or reuniting the family.

9 (b) **Before When** preparing the report required by subsection (a), **if**
10 **the child is placed in foster care**, the department shall consult **a** the
11 foster parent of the child about the child's progress made while in the
12 foster parent's care. **The department shall include as part of the**
13 **report the information and any recommendations gathered from**
14 **the foster parent.**

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

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

24 SECTION 14. IC 31-34-23-5 IS ADDED TO THE INDIANA
25 CODE AS A NEW SECTION TO READ AS FOLLOWS
26 [EFFECTIVE JULY 1, 2019]: Sec. 5. (a) **If a child who was:**

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

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

31 **is returned to an out-of-home placement, the court and the**
32 **department shall make a reasonable attempt to place the child in**
33 **the out-of-home placement in which the child was placed under**
34 **subdivision (1) if the out of home placement is appropriate under**
35 **IC 31-27-4 and IC 31-34-4-2 and the placement is in the child's best**
36 **interests.**

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

42 SECTION 15. IC 31-35-2-4.5, AS AMENDED BY P.L.5-2015,



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

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

6 (2) a child in need of services or a delinquent child:

7 (A) has been placed in:

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

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

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

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

20 (1) file a petition to terminate the parent-child relationship under
21 section 4 of this chapter; and

22 (2) request that the petition be set for hearing.

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

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

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

39 (2) That:

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

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



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

- 9 (3) That:
- 10 (A) IC 31-34-21-5.6 is not applicable to the child;
 - 11 (B) the department has not provided family services to the
 12 child, parent, or family of the child, in accordance with
 13 applicable provisions of a currently effective case plan
 14 prepared under IC 31-34-15 or IC 31-37-19-1.5, or a
 15 permanency plan or dispositional decree approved under
 16 IC 31-34 or IC 31-37; and
 - 17 (C) the services that the department has not provided are
 18 substantial and material in relation to implementation of a plan
 19 to permit safe return of the child to the child's home.

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

- 25 (e) If:
- 26 (1) a child in need of services or a delinquent child has been
 27 removed from a parent and has been under the supervision of
 28 the department or county probation department for not less
 29 than fifteen (15) months of the most recent twenty-two (22)
 30 months, beginning with the date the child is removed from the
 31 home as a result of the child being alleged to be a child in need
 32 of services or a delinquent child; and
 - 33 (2) a petition to terminate the parent-child relationship has
 34 not been filed by the department or another person described
 35 in section 4(a) of this chapter;
 36 a foster parent, relative of the child, or de facto custodian with
 37 whom the child has been placed for at least six (6) months may file
 38 a notice with the court that the petition to terminate the
 39 parent-child relationship has not been filed as required under
 40 subsection (b). Upon the filing of the notice, if the petition to
 41 terminate the parent-child relationship has not been filed, the court
 42 shall schedule a hearing within thirty (30) days.



1 SECTION 16. [EFFECTIVE JULY 1, 2019] (a) Before July 1,
2 2020, the department of child services and the office of judicial
3 administration shall jointly provide a report described in this
4 SECTION to the general assembly in an electronic format under
5 IC 5-14-6.
6 (b) The office of judicial administration shall include in the
7 report information concerning the office's progress in providing
8 training and technical assistance to judicial officers on foster
9 parents' statutory right to be heard through oral and written
10 testimony to the court in accordance with IC 31-34-21-4.
11 (c) The department of child services shall include in the report
12 information concerning the department's progress in improving
13 opportunities for foster parents to provide oral and written
14 testimony to the court in accordance with IC 31-34-21-4.
15 (d) This SECTION expires December 31, 2020.



COMMITTEE REPORT

Madam President: The Senate Committee on Family and Children Services, to which was referred Senate Bill No. 1, 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, delete lines 1 through 15, begin a new paragraph and insert:

"SECTION 1. IC 31-10-2-2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 2. For purposes of:**

- (1) IC 31-33;
- (2) IC 31-34; and
- (3) IC 31-35;

all decisions made by the department or the court shall be made in consideration of the best interests of the child or children concerned.

SECTION 2. IC 31-25-6 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]:

Chapter 6. Family Case Manager Assistance

Sec. 1. The department shall implement and make available telephone contacts for family case managers for the purpose of providing access to assistance in finding a relative, foster, or other suitable placement for a child.

Sec. 2. The telephone contacts required by section 1 of this chapter must meet the following requirements:

- (1) Be available to family case managers statewide.
- (2) Be able to provide assistance and be available on a twenty-four (24) hour, seven (7) day per week basis.

SECTION 3. IC 31-27-4-8, AS AMENDED BY P.L.12-2018, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 8. (a)** An applicant may not provide supervision and care as a foster family home if more than:

- (1) six (6) individuals, each of whom:
 - (A) is less than eighteen (18) years of age; or
 - (B) is at least eighteen (18) years of age and is receiving care and supervision under an order of a juvenile court; or
- (2) four (4) individuals less than six (6) years of age;

including the children or individuals for whom the provider is a relative, guardian, or custodian, receive care and supervision at the facility at the same time.

- (b) Not more than four (4) of the six (6) individuals in subsection

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(a)(1) may be less than six (6) years of age.

(c) The department may grant an exception to this section whenever the department determines that:

(1) the placement of siblings in the same foster family home is desirable;

(2) a foster child has an established, meaningful relationship with the foster parents; ~~or~~

(3) the:

(A) child is being placed in the foster family home for a second or subsequent time under IC 31-34-23-5;

(B) placement would not cause the foster family home to be out of compliance with federal law; and

(C) department determines that the placement would not present a safety risk for the child or for any other resident of the foster family home; or

~~(3)~~ **(4)** it is otherwise in the foster child's best interests.

(d) If a foster family home does not meet the requirements under subsection (a) on July 1, 2011, any foster child placed in the home prior to July 1, 2011, may remain placed. However, a new placement of a child may not be made in violation of this section."

Delete pages 2 through 6.

Page 7, delete lines 1 through 20.

Page 7, between lines 37 and 38, begin a new paragraph and insert:
"SECTION 5. IC 31-34-18-6.1, AS AMENDED BY P.L.66-2015, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 6.1. (a) The predispositional report prepared by the department or caseworker must include the following information:

(1) A description of all dispositional options considered in preparing the report.

(2) An evaluation of each of the options considered in relation to the plan of care, treatment, rehabilitation, or placement recommended under the guidelines described in section 4 of this chapter.

(3) A description of the due diligence efforts that the department has made to identify all adult relatives of the child.

~~(3)~~ **(4)** The name, occupation and position, and any relationship to the child of each person with whom the preparer of the report conferred as provided in section 1.1 of this chapter.

~~(4)~~ **(5)** The report and recommendations of the dual status assessment team if the child is a dual status child under IC 31-41.

(b) If the department or caseworker is considering an out-of-home



placement, including placement with a blood or an adoptive relative caretaker, the department or caseworker shall conduct a criminal history check (as defined in IC 31-9-2-22.5) for each person who is currently residing in the location designated as the out-of-home placement. The results of the criminal history check must be included in the predispositional report.

(c) The department or caseworker is not required to conduct a criminal history check under this section if:

- (1) the department or caseworker is considering only an out-of-home placement to an entity or a facility that:
 - (A) is not a residence (as defined in IC 3-5-2-42.5); or
 - (B) is licensed by the state; or
- (2) placement under this section is undetermined at the time the predispositional report is prepared."

Page 8, between lines 15 and 16, begin a new paragraph and insert:
 "SECTION 7. IC 31-34-21-4, AS AMENDED BY P.L.128-2012, SECTION 167, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 4. (a) Except as provided in subsection (f), at least seven (7) days before the periodic case review, including a case review that is a permanency hearing under section 7 of this chapter, the department shall provide notice of the review to each of the following:

- (1) The child's parent, guardian, or custodian.
- (2) An attorney who has entered an appearance on behalf of the child's parent, guardian, or custodian.
- (3) A prospective adoptive parent named in a petition for adoption of the child filed under IC 31-19-2 if:
 - (A) each consent to adoption of the child that is required under IC 31-19-9-1 has been executed in the form and manner required by IC 31-19-9 and filed with the local office;
 - (B) the court having jurisdiction in the adoption case has determined under any applicable provision of IC 31-19-9 that consent to adoption is not required from a parent, guardian, or custodian; or
 - (C) a petition to terminate the parent-child relationship between the child and any parent who has not executed a written consent to adoption under IC 31-19-9-2 has been filed under IC 31-35 and is pending.
- (4) The child's foster parent or long term foster parent.
- (5) Any other person who:
 - (A) the department has knowledge is currently providing care for the child; and



(B) is not required to be licensed under IC 12-17.2 or IC 31-27 to provide care for the child.

(6) Any other suitable relative or person whom the department knows has had a significant or caretaking relationship to the child.

(b) The department shall present proof of service of the notice required by subsection (a) at the periodic case review.

(c) The department shall provide notices under this section as provided in IC 31-32-1-4.

(d) The court shall provide to a person described in subsection (a) an opportunity to be heard and to make any recommendations to the court in a periodic case review, including a permanency hearing under section 7 of this chapter. The right to be heard and to make recommendations under this subsection includes:

(1) the right of a person described in subsection (a) to submit a written statement to the court that, if served upon all parties to the child in need of services proceeding and the persons described in subsection (a), may be made a part of the court record; and

(2) the right to present oral testimony to the court and cross examine any of the witnesses at the hearing.

(e) The department and the office of judicial administration, in collaboration with foster parents and other stakeholders, shall prepare a form that may be used to provide written testimony to the court under this section. The department shall post the form on the department's Internet web site. Foster parents may provide written testimony to the court in a format other than the form described in this subsection.

~~(e)~~ **(f)** Except as provided in subsection ~~(f)~~; **(g)**, this section does not exempt the department from sending a notice of the review to each party to the child in need of services proceeding.

~~(f)~~ **(g)** If the parent of an abandoned child does not disclose the parent's name as allowed by IC 31-34-2.5-1(c), the parent is not required to be notified of a proceeding described in subsection (a)."

Page 9, line 8, delete "for the" and insert **"for at least six (6) months."**

Page 9, delete lines 9 through 37.

Page 10, line 7, delete "a foster parent" and insert **"the"**.

Page 10, line 7, delete "recommendation form" and insert **"any recommendations gathered from the foster parent."**

Page 10, delete line 8.

Page 10, delete lines 18 through 24.

Page 10, line 27, delete "Except as provided in" and insert **"If"**.

Page 10, line 28, delete "subsection (c), if".



Page 10, line 36, delete "." and insert **"if the out of home placement is appropriate under IC 31-27-4 and IC 31-34-4-2 and the placement is in the child's best interests."**

Page 10, delete line 42.

Delete pages 11 through 12.

Page 13, delete lines 1 through 41.

Page 16, delete line 2, begin a new paragraph and insert:

"SECTION 15. [EFFECTIVE JULY 1, 2019] (a) Before July 1, 2020, the department of child services and the office of judicial administration shall jointly provide a report described in this SECTION to the general assembly in an electronic format under IC 5-14-6.

(b) The office of judicial administration shall include in the report information concerning the office's progress in providing training and technical assistance to judicial officers on foster parents' statutory right to be heard through oral and written testimony to the court in accordance with IC 31-34-21-4.

(c) The department of child services shall include in the report information concerning the department's progress in improving opportunities for foster parents to provide oral and written testimony to the court in accordance with IC 31-34-21-4.

(d) This SECTION expires December 31, 2020."

Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 1 as introduced.)

GROOMS, Chairperson

Committee Vote: Yeas 8, Nays 0.

SENATE MOTION

Madam President: I move that Senate Bill 1 be amended to read as follows:

Page 1, between lines 9 and 10, begin a new paragraph and insert:

"SECTION 2. IC 31-19-9-10, AS AMENDED BY P.L.65-2016, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 10. A court shall determine that consent to adoption is not required from a parent if:

(1) the parent is convicted of and incarcerated at the time of the

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filing of a petition for adoption for:

- (A) murder (IC 35-42-1-1);
 - (B) causing suicide (IC 35-42-1-2);
 - (C) voluntary manslaughter (IC 35-42-1-3);
 - (D) rape (IC 35-42-4-1);
 - (E) criminal deviate conduct (IC 35-42-4-2) (before its repeal);
 - (F) child molesting (IC 35-42-4-3) as a:
 - (i) Class A or Class B felony, for a crime committed before July 1, 2014; or
 - (ii) Level 1, Level 2, Level 3, or Level 4 felony, for a crime committed after June 30, 2014;
 - (G) incest (IC 35-46-1-3) as a:
 - (i) Class B felony, for a crime committed before July 1, 2014; or
 - (ii) Level 4 felony, for a crime committed after June 30, 2014;
 - (H) neglect of a dependent (IC 35-46-1-4) as a:
 - (i) Class B felony, for a crime committed before July 1, 2014; or
 - (ii) Level 1 or Level 3 felony, for a crime committed after June 30, 2014;
 - (I) battery (IC 35-42-2-1) of a child as a:
 - (i) Class C felony, for a crime committed before July 1, 2014; or
 - (ii) Level 5 felony, for a crime committed after June 30, 2014;
 - (J) battery (IC 35-42-2-1) as a:
 - (i) Class A or Class B felony, for a crime committed before July 1, 2014; or
 - (ii) Level 2, Level 3, or Level 4 felony, for a crime committed after June 30, 2014;
 - (K) domestic battery (IC 35-42-2-1.3) as a Level 5, Level 4, Level 3, or Level 2 felony;
 - (L) aggravated battery (IC 35-42-2-1.5) as a Level 3 or Level 1 felony; ~~or~~
 - (M) an attempt under IC 35-41-5-1 to commit an offense described in this subdivision; ~~or~~
 - (N) a crime in another state that is substantially similar to a crime described in clauses (A) through (M);**
- (2) the child or the child's sibling, half-blood sibling, or step-sibling of the parent's current marriage is the victim of the offense; and



(3) after notice to the parent and a hearing, the court determines that dispensing with the parent's consent to adoption is in the child's best interests."

Renumber all SECTIONS consecutively.

(Reference is to SB 1 as printed February 13, 2019.)

HOLDMAN

SENATE MOTION

Madam President: I move that Senate Bill 1 be amended to read as follows:

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

"SECTION 1. IC 31-9-2-76.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 76.5. "Long term foster parent", for purposes of ~~IC 31-34-21-4~~ and ~~IC 31-34-21-4.5~~, has the meaning set forth in ~~IC 31-34-21-4.6~~: **IC 31-32-2.5 and IC 31-34-21, means a foster parent who has provided care and supervision for a child:**

- (1) for at least twelve (12) months;**
- (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 of age, for at least six (6) months."**

Page 2, between lines 40 and 41, begin a new paragraph and insert:
"SECTION 5. IC 31-32-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW CHAPTER** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]:

Chapter 2.5. Right to Intervene in CHINS Proceedings and Termination of Parent-Child Relationship Proceedings

Sec. 1. (a) Except as provided in subsection (b) and subject to this chapter, a:

- (1) foster parent;**
- (2) long term foster parent; or**
- (3) person who has been a foster parent;**

of a child may petition the court to request intervention as a party during any stage of a child in need of services proceeding under IC 31-34 or a termination of parent-child relationship proceeding under IC 31-35 concerning the child.



- (b) Any person described in subsection (a) 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 chapter.

Sec. 2. (a) Except as provided in subsection (b) or (c), a court may grant or deny a petition filed under this chapter with or without a hearing on the petition.

(b) This subsection applies to a CHINS proceeding. If the PETITIONER to intervene under this chapter is a long term foster parent and:

- (1) the petition is to intervene in a proceeding to terminate the parent-child relationship under IC 31-35-2-4;**
- (2) the petitioner has filed a petition to adopt the child under IC 31-19-2-2; or**
- (3) the court ordered permanency plan for the child is no longer reunification;**

the court shall hold a hearing on a petition to intervene under this chapter before a court may grant or deny a petition under this chapter.

(c) This subsection applies to a termination of parent-child relationship proceeding. If the petitioner to intervene under this chapter is a long term foster parent, the court shall hold a hearing on a petition to intervene under this chapter before a court may grant or deny a petition under this chapter.

Sec. 3. A court shall grant a petition to intervene filed under this chapter if the court determines that intervention by the petitioner is in the best interests of the child."

Page 6, delete lines 2 through 37, begin a new paragraph and insert:

"SECTION 8. 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: as set forth in IC 31-32-2.5.

(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.

SECTION 9. IC 31-34-21-4.6 IS REPEALED [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) the twelve (12) most recent months; or
- (2) fifteen (15) months of the most recent twenty-two (22) months."

Page 9, line 36, delete "order the department to file a petition to terminate the" and insert "**schedule a hearing within thirty (30) days.**".

Page 9, delete line 37.

Renumber all SECTIONS consecutively.

(Reference is to SB 1 as printed February 13, 2019.)

HOUCHIN

