

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 ENROLLED ACT No. 1

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:

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 the twelve (12) most recent 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.

SECTION 2. 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 3. IC 31-19-2-7 IS AMENDED TO READ AS

SEA 1 — Concur



FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 7. (a) **Except as provided in subsection (e)**, a medical report of the health status and medical history of the child sought to be adopted and the child's birth parents must:

- (1) accompany a petition for adoption; or
- (2) be filed not later than sixty (60) days after the filing of a petition for adoption.
- (b) The medical report must:
 - (1) include neonatal, psychological, physiological, and medical care history; and
 - (2) be on forms prescribed by the state registrar.
- (c) A copy of the medical report shall be sent to the following persons:
 - (1) The state registrar.
 - (2) The prospective adoptive parents.
- (d) This section does not authorize the release of medical information that would result in the identification of an individual.

(e) This section does not apply to a petition for adoption under section 1 of this chapter.

SECTION 4. 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 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.

SECTION 5. 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 placement with a relative, foster placement, 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 6. 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 (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.

SECTION 7. 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 Child in Need of Services 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 child in need of services proceeding. If the petitioner to intervene under this chapter is a long term foster parent and:

- (1) a petition to terminate the parent-child relationship has been filed 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.

SECTION 8. IC 31-34-12-8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 8.** A court may find that a child is not a child in need of services under IC 31-34-1-1 if the court finds, based on credible evidence presented by the child's parent, guardian, or custodian, that the parent, guardian, or custodian:

- (1) is financially unable to supply the child with necessary food, clothing, or shelter; and
- (2) has not failed, refused, or demonstrated an inability to



seek financial or other reasonable means to do so.

SECTION 9. IC 31-34-18-2, AS AMENDED BY P.L.146-2008, SECTION 598, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 2. (a) In addition to providing the court with a recommendation for the care, treatment, or rehabilitation of the child, the person preparing the report shall consider the necessity, nature, and extent of the participation by a parent, guardian, or custodian in a program of care, treatment, or rehabilitation for the child.

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

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

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

SECTION 10. 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.

~~(4)~~ **(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.

~~(5)~~ **(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.

SECTION 11. IC 31-34-19-7, AS AMENDED BY P.L.123-2014, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 7. (a) In addition to the factors under section 6 of this chapter, if the court enters a dispositional decree regarding a child 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 12. 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

SEA 1 — Concur



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.

~~(f)~~ (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).

SECTION 13. 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 14. 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.~~

SECTION 15. 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 the information gathered from 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.

SECTION 16. 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) 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) 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.

(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.

SECTION 17. 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 schedule a hearing within thirty (30) days.

SECTION 18. [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, as amended by this act.

(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, as amended by this act.

(d) This SECTION expires December 31, 2020.



President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

SEA 1 — Concur

