



February 23, 2018

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# ENGROSSED SENATE BILL No. 135

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DIGEST OF SB 135 (Updated February 21, 2018 10:06 am - DI 125)

**Citations Affected:** IC 31-9; IC 31-32; IC 31-34; IC 34-30.

**Synopsis:** Department of child services notifications for schools. Requires the department of child services to notify the individual designated as the point of contact for a child's school if the child is removed from the child's home. Provides immunity from civil liability for: (1) a guardian ad litem program; (2) a court appointed special advocate program; (3) an employee of or volunteer for a guardian ad litem program or court appointed special advocate program; and (4) an individual acting as a contracted guardian ad litem; when a child is placed on a waiting list for guardian ad litem or court appointed special advocate services. Makes conforming amendments.

**Effective:** July 1, 2018.

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## Bohacek, Zay, Houchin, Niezgodski

(HOUSE SPONSORS — PRESSEL, OLTHOFF)

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January 3, 2018, read first time and referred to Committee on Family and Children Services.

January 16, 2018, amended, reported favorably — Do Pass.

January 18, 2018, read second time, ordered engrossed. Engrossed.

January 25, 2018, read third time, passed. Yeas 48, nays 0.

#### HOUSE ACTION

February 6, 2018, read first time and referred to Committee on Family, Children and Human Affairs.

February 22, 2018, amended, reported — Do Pass.

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ES 135—LS 6209/DI 125





February 23, 2018

Second Regular Session 120th General Assembly (2018)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2017 Regular Session of the General Assembly.

## ENGROSSED SENATE BILL No. 135

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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 31-9-2-28, AS AMENDED BY P.L.48-2012,  
2 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2018]: Sec. 28. (a) "Court appointed special advocate", for  
4 purposes of IC 31-15-6, IC 31-17-6, IC 31-19-16, IC 31-19-16.5,  
5 IC 31-28-5, **IC 31-32-3-10.5**, and the juvenile law, means a community  
6 volunteer who:  
7 (1) has completed a training program approved by the court;  
8 (2) has been appointed by a court to represent and protect the best  
9 interests of a child; and  
10 (3) may research, examine, advocate, facilitate, and monitor a  
11 child's situation.  
12 (b) "Court appointed special advocate", for purposes of  
13 **IC 31-32-3-10.5**, IC 31-33, IC 31-34, IC 31-35, and IC 31-37, means  
14 a community volunteer who:  
15 (1) has completed a training program approved by the court that  
16 includes training in:  
17 (A) the identification and treatment of child abuse and neglect;

ES 135—LS 6209/DI 125



- 1 and
- 2 (B) early childhood, child, and adolescent development;
- 3 as required by 42 U.S.C. 5106a(b)(2)(B)(xiii);
- 4 (2) has been appointed by a court to represent and protect the best
- 5 interests of a child; and
- 6 (3) may research, examine, advocate, facilitate, and monitor a
- 7 child's situation.
- 8 SECTION 2. IC 31-9-2-50, AS AMENDED BY P.L.48-2012,
- 9 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 10 JULY 1, 2018]: Sec. 50. (a) "Guardian ad litem", for purposes of
- 11 IC 31-15-6, IC 31-19-16, IC 31-19-16.5, IC 31-28-5, **IC 31-32-3-10.5**,
- 12 and the juvenile law, means an attorney, a volunteer, or an employee
- 13 of a county program designated under IC 33-24-6-4 who is appointed
- 14 by a court to:
- 15 (1) represent and protect the best interests of a child; and
- 16 (2) provide the child with services requested by the court,
- 17 including:
- 18 (A) researching;
- 19 (B) examining;
- 20 (C) advocating;
- 21 (D) facilitating; and
- 22 (E) monitoring;
- 23 the child's situation.
- 24 A guardian ad litem who is not an attorney must complete the same
- 25 court approved training program that is required for a court appointed
- 26 special advocate under section 28 of this chapter.
- 27 (b) "Guardian ad litem", for purposes of **IC 31-32-3-10.5**, IC 31-33,
- 28 IC 31-34, IC 31-35 and IC 31-37, means an attorney, a volunteer, or an
- 29 employee of a county program designated under IC 33-24-6-4 who:
- 30 (1) is appointed by a court to represent and protect the best
- 31 interests of a child;
- 32 (2) is appointed by a court to provide the child with services
- 33 requested by the court, including:
- 34 (A) researching;
- 35 (B) examining;
- 36 (C) advocating;
- 37 (D) facilitating; and
- 38 (E) monitoring;
- 39 the child's situation; and
- 40 (3) has completed training appropriate for the person's role,
- 41 including training in:
- 42 (A) the identification and treatment of child abuse and neglect;



1 and

2 (B) early childhood, child, and adolescent development;  
3 as required by 42 U.S.C. 5106a(b)(2)(B)(xiii).

4 A guardian ad litem who is not an attorney must complete the same  
5 court approved training program that is required for a court appointed  
6 special advocate under section 28 of this chapter.

7 SECTION 3. IC 31-32-3-10.5 IS ADDED TO THE INDIANA  
8 CODE AS A **NEW SECTION TO READ AS FOLLOWS**  
9 [EFFECTIVE JULY 1, 2018]: **Sec. 10.5. (a) As used in this section,**  
10 **"court appointed special advocate" has the meaning set forth in**  
11 **IC 31-9-2-28.**

12 **(b) As used in this section, "guardian ad litem" has the meaning**  
13 **set forth in IC 31-9-2-50.**

14 **(c) When a juvenile court appoints a guardian ad litem or court**  
15 **appointed special advocate in a proceeding from a volunteer based**  
16 **program funded through IC 33-24-6-4, and, due to the caseload of**  
17 **the guardian ad litem program or court appointed special advocate**  
18 **program, the child is placed on a waiting list for guardian ad litem**  
19 **or court appointed special advocate services:**

20 **(1) the guardian ad litem program or court appointed special**  
21 **advocate program;**

22 **(2) any employee of or volunteer for the guardian ad litem**  
23 **program or court appointed special advocate program; and**

24 **(3) any individual acting as a contracted guardian ad litem;**

25 **are immune from civil liability based on the child being placed on**  
26 **the waiting list unless the placement of the child on the waiting list**  
27 **is the result of gross negligence or willful and wanton misconduct.**

28 **(d) Nothing in this section shall be construed to negate the**  
29 **appointment of a:**

30 **(1) guardian ad litem; or**

31 **(2) court appointed special advocate;**

32 **when required by IC 31-34-10-3.**

33 SECTION 4. IC 31-34-3-4 IS AMENDED TO READ AS  
34 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 4. The notice **to the**  
35 **parent, guardian, or custodian** required by this chapter must:

36 (1) identify a person or an entity that the parent, guardian, or  
37 custodian may contact to obtain more information regarding the  
38 child's removal from the child's residence; and

39 (2) be given to each of the child's parents as described in sections  
40 1 through 3 of this chapter.

41 SECTION 5. IC 31-34-3-4.7 IS ADDED TO THE INDIANA CODE  
42 AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY



1 1, 2018]: **Sec. 4.7. If a child who is a student attending kindergarten**  
2 **through grade 12 is taken into custody under IC 31-34-2, the**  
3 **department shall, not later than seventy-two (72) hours after the**  
4 **child is taken into custody, provide written or verbal notice to the**  
5 **individual designated as the point of contact for the school that the**  
6 **child attends that the child has been removed from the child's**  
7 **home.**

8 SECTION 6. IC 34-30-2-134.1 IS ADDED TO THE INDIANA  
9 CODE AS A NEW SECTION TO READ AS FOLLOWS  
10 [EFFECTIVE JULY 1, 2018]: **Sec. 134.1. IC 31-32-3-10.5**  
11 **(Concerning a guardian ad litem program or court appointed**  
12 **special advocate program, an employee of or volunteer for a**  
13 **guardian ad litem program or court appointed special advocate**  
14 **program, or an individual acting as a contracted guardian ad**  
15 **litem).**



## COMMITTEE REPORT

Madam President: The Senate Committee on Family and Children Services, to which was referred Senate Bill No. 135, 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 17.

Page 2, delete lines 1 through 9.

Page 2, line 22, delete "before the start of the next school day," and insert "**not later than seventy-two (72) hours after the child is taken into custody**,".

Page 2, line 23, delete "principal, or the designee of the" and insert "**individual designated as the point of contact for**".

Page 2, line 24, delete "principal, of".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 135 as introduced.)

GROOMS, Chairperson

Committee Vote: Yeas 7, Nays 0.

## COMMITTEE REPORT

Mr. Speaker: Your Committee on Family, Children and Human Affairs, to which was referred Senate Bill 135, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

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

"SECTION 1. IC 31-9-2-28, AS AMENDED BY P.L.48-2012, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 28. (a) "Court appointed special advocate", for purposes of IC 31-15-6, IC 31-17-6, IC 31-19-16, IC 31-19-16.5, IC 31-28-5, **IC 31-32-3-10.5**, and the juvenile law, means a community volunteer who:

- (1) has completed a training program approved by the court;
- (2) has been appointed by a court to represent and protect the best interests of a child; and

ES 135—LS 6209/DI 125



(3) may research, examine, advocate, facilitate, and monitor a child's situation.

(b) "Court appointed special advocate", for purposes of **IC 31-32-3-10.5**, IC 31-33, IC 31-34, IC 31-35, and IC 31-37, means a community volunteer who:

(1) has completed a training program approved by the court that includes training in:

(A) the identification and treatment of child abuse and neglect; and

(B) early childhood, child, and adolescent development; as required by 42 U.S.C. 5106a(b)(2)(B)(xiii);

(2) has been appointed by a court to represent and protect the best interests of a child; and

(3) may research, examine, advocate, facilitate, and monitor a child's situation.

SECTION 2. IC 31-9-2-50, AS AMENDED BY P.L.48-2012, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 50. (a) "Guardian ad litem", for purposes of IC 31-15-6, IC 31-19-16, IC 31-19-16.5, IC 31-28-5, **IC 31-32-3-10.5**, and the juvenile law, means an attorney, a volunteer, or an employee of a county program designated under IC 33-24-6-4 who is appointed by a court to:

(1) represent and protect the best interests of a child; and

(2) provide the child with services requested by the court, including:

(A) researching;

(B) examining;

(C) advocating;

(D) facilitating; and

(E) monitoring;

the child's situation.

A guardian ad litem who is not an attorney must complete the same court approved training program that is required for a court appointed special advocate under section 28 of this chapter.

(b) "Guardian ad litem", for purposes of **IC 31-32-3-10.5**, IC 31-33, IC 31-34, IC 31-35 and IC 31-37, means an attorney, a volunteer, or an employee of a county program designated under IC 33-24-6-4 who:

(1) is appointed by a court to represent and protect the best interests of a child;

(2) is appointed by a court to provide the child with services requested by the court, including:

(A) researching;





- (B) examining;
  - (C) advocating;
  - (D) facilitating; and
  - (E) monitoring;
- the child's situation; and
- (3) has completed training appropriate for the person's role, including training in:
- (A) the identification and treatment of child abuse and neglect; and
  - (B) early childhood, child, and adolescent development;
- as required by 42 U.S.C. 5106a(b)(2)(B)(xiii).

A guardian ad litem who is not an attorney must complete the same court approved training program that is required for a court appointed special advocate under section 28 of this chapter.

**SECTION 3. IC 31-32-3-10.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 10.5. (a) As used in this section, "court appointed special advocate" has the meaning set forth in IC 31-9-2-28.**

**(b) As used in this section, "guardian ad litem" has the meaning set forth in IC 31-9-2-50.**

**(c) When a juvenile court appoints a guardian ad litem or court appointed special advocate in a proceeding from a volunteer based program funded through IC 33-24-6-4, and, due to the caseload of the guardian ad litem program or court appointed special advocate program, the child is placed on a waiting list for guardian ad litem or court appointed special advocate services:**

- (1) the guardian ad litem program or court appointed special advocate program;**
  - (2) any employee of or volunteer for the guardian ad litem program or court appointed special advocate program; and**
  - (3) any individual acting as a contracted guardian ad litem;**
- are immune from civil liability based on the child being placed on the waiting list unless the placement of the child on the waiting list is the result of gross negligence or willful and wanton misconduct.**

**(d) Nothing in this section shall be construed to negate the appointment of a:**

- (1) guardian ad litem; or**
  - (2) court appointed special advocate;**
- when required by IC 31-34-10-3."**

Page 1, after line 17, begin a new paragraph and insert:

"SECTION 6. IC 34-30-2-134.1 IS ADDED TO THE INDIANA



CODE AS A NEW SECTION TO READ AS FOLLOWS  
[EFFECTIVE JULY 1, 2018]: **Sec. 134.1. IC 31-32-3-10.5  
(Concerning a guardian ad litem program or court appointed  
special advocate program, an employee of or volunteer for a  
guardian ad litem program or court appointed special advocate  
program, or an individual acting as a contracted guardian ad  
litem).**"

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 135 as printed January 17, 2018.)

FRIZZELL

Committee Vote: yeas 13, nays 0.

