

SENATE BILL No. 259

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-13-19; IC 29-3; IC 31-10-2; IC 31-17; IC 31-19-11; IC 31-27-2; IC 31-33-28.

Synopsis: Parents with disabilities. Specifies that it is the policy of the state to recognize the importance of family and children, including the parenting rights of a parent, regardless of whether the parent has a disability. Provides that the right of a person with a disability to parent the person's child may not be denied or restricted solely because the person has a disability. Establishes procedures to be used in proceedings concerning: (1) custody; (2) parenting time; (3) adoption; (4) foster care; and (5) guardianship; when a parent, prospective parent, prospective foster parent, or prospective guardian is a person with a disability. Requires the department of child services to implement disability awareness training. Requires the department of child services to: (1) transfer records concerning the unlawful removal of a child to the department of child services ombudsman (ombudsman); and (2) after transferring the records, remove, delete, or destroy all information concerning the unlawful removal of a child. Requires the ombudsman to securely store records received from the department of child services. Specifies that records received from the department of child services are confidential and may not be disclosed to the public unless: (1) the parent, guardian, or custodian requests a copy; (2) the records are compiled into an aggregate statistical report containing no identifying information; or (3) the records are redacted. Requires the ombudsman to compile an aggregate statistical report before July 1, 2022, and before July 1 of each following year.

Effective: July 1, 2021.

Niezgodski

January 11, 2021, read first time and referred to Committee on Family and Children Services.



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

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

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

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2020 Regular Session of the General Assembly.

SENATE BILL No. 259



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 4-13-19-6.5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2021]: **Sec. 6.5. (a) The following definitions apply throughout**
4 **this section:**
5 (1) **"Expunged record" means information transferred by the**
6 **department of child services to the ombudsman under**
7 **IC 31-33-28 concerning a report, assessment, or**
8 **determination under IC 31-33 relating to the unlawful**
9 **removal of a child.**
10 (2) **"Identifying information" has the meaning set forth in**
11 **IC 35-43-5-1.**
12 (3) **"Information" has the meaning set forth in IC 31-33-28-3.**
13 **(b) The ombudsman shall receive and securely store expunged**
14 **records received from the department of child services under**
15 **IC 31-33-28.**
16 **(c) Except as provided in subsections (d) through (f), an**
17 **expunged record stored by the ombudsman is confidential.**



1 (d) Before July 1, 2022, and before July 1 of every year
 2 thereafter, the ombudsman shall compile data contained in
 3 expunged records to create an aggregate statistical report. The
 4 aggregate statistical report:

5 (1) may not contain any identifying information relating to the
 6 parent, guardian, custodian, or child named in the expunged
 7 records; and

8 (2) must include, if available, the number of parents with a
 9 disability and the percentage of parents with a disability
 10 whose records have been expunged.

11 An aggregate statistical report is not confidential.

12 (e) Upon request, the ombudsman shall release a copy of an
 13 expunged record maintained by the ombudsman to the parent,
 14 guardian, or custodian named in the expunged record.

15 (f) The ombudsman may, after redacting all identifying
 16 information relating to a parent, guardian, custodian, or child,
 17 disclose a copy of an expunged record to the public if, after
 18 consideration of all the circumstances, the ombudsman determines
 19 that the redacted expunged record will not permit identification of
 20 a parent, guardian, custodian, or child named in the unredacted
 21 record.

22 SECTION 2. IC 4-13-19-7, AS ADDED BY P.L.182-2009(ss),
 23 SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 24 JULY 1, 2021]: Sec. 7. The office of the department of child services
 25 ombudsman shall do the following:

26 (1) Establish procedures to receive and investigate complaints.

27 (2) Establish physical, technological, and administrative access
 28 controls for all information maintained by the office of the
 29 department of child services ombudsman.

30 (3) Except as necessary to investigate and resolve a complaint,
 31 ensure that the identity of a complainant will not be disclosed
 32 without:

33 (A) the complainant's written consent; or

34 (B) a court order.

35 (4) In accordance with section 6.5 of this chapter, maintain
 36 expunged records received from the department of child
 37 services under IC 31-33-28.

38 SECTION 3. IC 29-3-5-4, AS AMENDED BY P.L.194-2017,
 39 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 40 JULY 1, 2021]: Sec. 4. (a) The court shall appoint as guardian a
 41 qualified person or persons most suitable and willing to serve, having
 42 due regard to the following:



- 1 (1) Any request made by a person alleged to be an incapacitated
 2 person, including designations in a durable power of attorney
 3 under IC 30-5-3-4(a).
 4 (2) Any request made for a minor by:
 5 (A) a parent of the minor; or
 6 (B) a de facto custodian of the minor, including a designation
 7 in a power of attorney under IC 30-5-3-4(b) or IC 30-5-3-4(c).
 8 (3) Any request contained in a will or other written instrument.
 9 (4) A designation of a standby guardian under IC 29-3-3-7.
 10 (5) Any request made by a minor who is at least fourteen (14)
 11 years of age.
 12 (6) Any request made by the spouse of the alleged incapacitated
 13 person.
 14 (7) The relationship of the proposed guardian to the individual for
 15 whom guardianship is sought.
 16 (8) Any person acting for the incapacitated person under a
 17 durable power of attorney.
 18 (9) The best interest of the incapacitated person or minor and the
 19 property of the incapacitated person or minor.
 20 **(b) Section 4.1 of this chapter applies when a prospective**
 21 **guardian is a person with a disability.**
 22 SECTION 4. IC 29-3-5-4.1 IS ADDED TO THE INDIANA CODE
 23 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 24 1, 2021]: **Sec. 4.1. (a) This section applies to a proceeding to appoint**
 25 **a guardian for a minor or an incapacitated person when a**
 26 **prospective guardian is a person with a disability.**
 27 **(b) As used in this section, "disability" has the meaning set forth**
 28 **in 42 U.S.C. 12102.**
 29 **(c) As used in this section, "supportive guardianship services"**
 30 **means services that may assist a guardian with a disability in the**
 31 **effective use of techniques and other alternative methods to enable**
 32 **the guardian to discharge the responsibilities of the guardianship**
 33 **as successfully as a guardian who does not have a disability.**
 34 **(d) A court may not refuse to appoint a person with a disability**
 35 **as a guardian if the person is otherwise the most qualified and**
 36 **suitable guardian as described in section 4 of this chapter.**
 37 **(e) If a person alleges that a prospective guardian's disability**
 38 **will have a detrimental effect on the minor child or incapacitated**
 39 **person, the person making the allegation bears the burden of**
 40 **establishing by clear and convincing evidence that the guardian's**
 41 **disability endangers or will likely endanger the health, safety, or**
 42 **welfare of the minor child or incapacitated person.**



1 (f) If a person makes the showing described in subsection (e), the
 2 prospective guardian with a disability may present rebuttal
 3 evidence demonstrating that the implementation of supportive
 4 guardianship services will alleviate the issues described in
 5 subsection (e). A court may award guardianship to a person with
 6 a disability on the condition that the guardian implement
 7 supportive guardianship services. The court shall review the need
 8 for supportive guardianship services after a reasonable period of
 9 time.

10 (g) If a court denies the guardianship of a person with a
 11 disability, the court shall make specific written findings:

- 12 (1) setting forth the basis for its determination; and
 13 (2) explaining why the reasonable accommodation of
 14 supportive guardianship services is insufficient to award the
 15 guardianship.

16 SECTION 5. IC 29-3-5-5, AS AMENDED BY P.L.194-2017,
 17 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 18 JULY 1, 2021]: Sec. 5. (a) The following are entitled to consideration
 19 for appointment as a guardian under section 4 of this chapter in the
 20 order listed:

- 21 (1) A person designated in a durable power of attorney.
 22 (2) A person designated as a standby guardian under IC 29-3-3-7.
 23 (3) The spouse of an incapacitated person.
 24 (4) An adult child of an incapacitated person.
 25 (5) A parent of an incapacitated person, or a person nominated by
 26 will of a deceased parent of an incapacitated person or by any
 27 writing signed by a parent of an incapacitated person and attested
 28 to by at least two (2) witnesses, or in a power of attorney of a
 29 living parent of an incapacitated person under IC 30-5-3-4(c).
 30 (6) A parent of a minor, a de facto custodian of a minor, or a
 31 person nominated:
 32 (A) by will of a deceased parent or a de facto custodian of a
 33 minor; or
 34 (B) by a power of attorney of a living parent or a de facto
 35 custodian of a minor.
 36 (7) Any person related to an incapacitated person by blood or
 37 marriage with whom the incapacitated person has resided for
 38 more than six (6) months before the filing of the petition.
 39 (8) A person nominated by the incapacitated person who is caring
 40 for or paying for the care of the incapacitated person.

41 (b) With respect to persons having equal priority, the court shall
 42 select the person it considers best qualified to serve as guardian. The



1 court, acting in the best interest of the incapacitated person or minor,
 2 may pass over a person having priority and appoint a person having a
 3 lower priority or no priority under this section. **Section 4.1 of this**
 4 **chapter applies to this subsection if a person having equal priority**
 5 **is a person with a disability.**

6 SECTION 6. IC 29-3-8-9, AS AMENDED BY P.L.48-2012,
 7 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 8 JULY 1, 2021]: Sec. 9. (a) A probate or juvenile court may include in
 9 its order creating a guardianship of a minor the following:

10 (1) A requirement that the minor must reside with the guardian
 11 until the guardianship is terminated or modified.

12 (2) Any terms and conditions that a parent must meet in order to
 13 seek modification or termination of the guardianship.

14 **(3) The requirement that the guardian implement supportive**
 15 **guardianship services (as defined in IC 29-3-5-4.1).**

16 (b) Except as provided in IC 29-3-12, if an order creating a
 17 guardianship contains terms and conditions described in subsection
 18 (a)(2), the court may modify or terminate the guardianship only if the
 19 parent:

20 (1) complies with the terms and conditions; and

21 (2) proves the parent's current fitness to assume all parental
 22 obligations by a preponderance of the evidence.

23 (c) If:

24 (1) a petition is filed for modification, resignation, or removal of
 25 the guardian or termination of the guardianship before the parent
 26 complies with the court ordered terms and conditions described
 27 in subsection (a)(2); and

28 (2) the minor:

29 (A) was the subject of a petition alleging the child to be a child
 30 in need of services; or

31 (B) is participating in a program of informal adjustment;

32 the court shall refer the petition to the department of child services for
 33 the department of child services to determine the placement of the child
 34 in accordance with the best interests of the child.

35 (d) A court shall notify the department of child services:

36 (1) if:

37 (A) the court appoints a guardian for a minor who:

38 (i) was the subject of a petition alleging the minor to be a
 39 child in need of services; or

40 (ii) is participating in a program of informal adjustment; and

41 (B) a petition to modify or terminate the guardianship of the
 42 minor or a petition regarding the death, resignation, or removal



- 1 of the guardian is filed; and
 2 (2) of any hearings related to the petitions described under
 3 subdivision (1)(B).
 4 (e) If a minor was the subject of a petition alleging the minor to be
 5 a child in need of services or is participating in a program of informal
 6 adjustment, the court shall do the following at a hearing regarding a
 7 petition filed under this section:
 8 (1) Consider the position of the department of child services.
 9 (2) If requested by the department of child services, allow the
 10 department of child services to present evidence regarding:
 11 (A) whether the guardianship should be modified or
 12 terminated;
 13 (B) the fitness of the parent to provide for the care and
 14 supervision of the minor at the time of the hearing;
 15 (C) the appropriate care and placement of the child; and
 16 (D) the best interests of the child.
 17 (f) The department of child services or the proposed guardian shall
 18 notify the court creating a guardianship if the department of child
 19 services has approved financial assistance to a guardian for the benefit
 20 of the protected person, as a component of child services (as defined in
 21 IC 31-9-2-17.8(1)(E)). If the guardian will be provided assistance as a
 22 component of child services, the court shall order the guardian to
 23 provide financial support to the protected person to the extent the
 24 following resources do not fully support the needs of the protected
 25 person:
 26 (1) The guardianship property of the protected person.
 27 (2) Child support or other financial assistance received by the
 28 guardian from the protected person's parent or parents.
 29 (3) Periodic payments the guardian receives from the department
 30 of child services for support of the protected person as set forth in
 31 the department of child service's rules or the terms of the
 32 guardianship assistance agreement.
 33 SECTION 7. IC 31-10-2-1 IS AMENDED TO READ AS
 34 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 1. It is the policy of this
 35 state and the purpose of this title to:
 36 (1) recognize the importance of family and children in our society,
 37 **including the parenting rights of a parent, regardless of**
 38 **whether the parent has a disability;**
 39 (2) recognize the responsibility of the state to enhance the
 40 viability of children and family in our society;
 41 (3) acknowledge the responsibility each person owes to the other;
 42 (4) strengthen family life by assisting parents to fulfill their



- 1 parental obligations;
 2 (5) ensure that children within the juvenile justice system are
 3 treated as persons in need of care, protection, treatment, and
 4 rehabilitation;
 5 (6) remove children from families only when it is in the child's
 6 best interest or in the best interest of public safety;
 7 (7) provide for adoption as a viable permanency plan for children
 8 who are adjudicated children in need of services;
 9 (8) provide a juvenile justice system that protects the public by
 10 enforcing the legal obligations that children have to society and
 11 society has to children;
 12 (9) use diversionary programs when appropriate;
 13 (10) provide a judicial procedure that:
 14 (A) ensures fair hearings;
 15 (B) recognizes and enforces the legal rights of children and
 16 their parents; and
 17 (C) recognizes and enforces the accountability of children and
 18 parents;
 19 (11) promote public safety and individual accountability by the
 20 imposition of appropriate sanctions; and
 21 (12) provide a continuum of services developed in a cooperative
 22 effort by local governments and the state.

23 SECTION 8. IC 31-10-2-3 IS ADDED TO THE INDIANA CODE
 24 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 25 1, 2021]: **Sec. 3. (a) The right of a person with a disability to parent
 26 the person's child may not be denied or restricted solely because
 27 the person has a disability.**

28 **(b) The department of child services shall implement
 29 appropriate training programs conducted by a person with a
 30 disability to educate departmental employees in the rights and
 31 capabilities of persons with disabilities.**

32 SECTION 9. IC 31-17-2-8.1 IS ADDED TO THE INDIANA CODE
 33 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 34 1, 2021]: **Sec. 8.1. (a) This section applies to a custody proceeding,
 35 including a proceeding to modify custody where one (1) or more
 36 parents have a disability.**

37 **(b) As used in this section, "disability" has the meaning set forth
 38 in 42 U.S.C. 12102.**

39 **(c) As used in this section, "supportive parenting services"
 40 means services that may assist a parent with a disability in the
 41 effective use of techniques and other alternative methods to enable
 42 the parent to discharge parental responsibilities as successfully as**



1 a parent who does not have a disability.

2 (d) A court may not deny or restrict custody because one (1) or
3 more parents are persons with a disability, if the court finds under
4 section 8 of this chapter that custody is otherwise in the best
5 interests of the child.

6 (e) If a person alleges that a parent's disability will have a
7 detrimental effect on a child, the person making the allegation
8 bears the burden of establishing by clear and convincing evidence
9 that the parent's disability endangers or will likely endanger the
10 health, safety, or welfare of the child.

11 (f) If a person makes the showing described in subsection (e), the
12 parent with a disability may present rebuttal evidence
13 demonstrating that the implementation of supportive parenting
14 services will alleviate the issues described in subsection (e). A court
15 may award custody to a parent with a disability on the condition
16 that the parent implement supportive parenting services. The court
17 shall review the need for supportive parenting services after a
18 reasonable period of time.

19 (g) If a court denies or restricts the custody of a parent with a
20 disability, the court shall make specific written findings:

21 (1) setting forth the basis for its determination; and

22 (2) explaining why the reasonable accommodation of
23 supportive parenting services is insufficient to grant
24 unrestricted custody.

25 SECTION 10. IC 31-17-4-1, AS AMENDED BY P.L.223-2019,
26 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
27 JULY 1, 2021]: Sec. 1. (a) Subject to subsections (d) and (e) **and**
28 **subject to section 1.1 of this chapter**, a parent not granted custody of
29 the child is entitled to reasonable parenting time rights unless the court
30 finds, after a hearing, that parenting time by the noncustodial parent
31 might endanger the child's physical health or significantly impair the
32 child's emotional development.

33 (b) The court may interview the child in chambers to assist the court
34 in determining the child's perception of whether parenting time by the
35 noncustodial parent might endanger the child's physical health or
36 significantly impair the child's emotional development.

37 (c) The court may permit counsel to be present at the interview. If
38 counsel is present:

39 (1) a record may be made of the interview; and

40 (2) the interview may be made part of the record for purposes of
41 appeal.

42 (d) Except as provided in subsection (e), if a court grants parenting



1 time rights to a person who has been convicted of:

2 (1) child molesting (IC 35-42-4-3); or

3 (2) child exploitation (IC 35-42-4-4(b) or IC 35-42-4-4(c));

4 there is a rebuttable presumption that the parenting time with the child
5 must be supervised.

6 (e) If a court grants parenting time rights to a person who has been
7 convicted of:

8 (1) child molesting (IC 35-42-4-3); or

9 (2) child exploitation (IC 35-42-4-4(b) or IC 35-42-4-4(c));

10 within the previous five (5) years, the court shall order that the
11 parenting time with the child must be supervised.

12 SECTION 11. IC 31-17-4-1.1 IS ADDED TO THE INDIANA
13 CODE AS A NEW SECTION TO READ AS FOLLOWS
14 [EFFECTIVE JULY 1, 2021]: **Sec. 1.1. (a) This section applies to a
15 proceeding to determine or modify parenting time rights where one
16 (1) or more parents have a disability.**

17 **(b) As used in this section, "disability" has the meaning set forth
18 in 42 U.S.C. 12102.**

19 **(c) As used in this section, "supportive parenting services"
20 means services that may assist a parent with a disability in the
21 effective use of techniques and other alternative methods to enable
22 the parent to discharge parental responsibilities as successfully as
23 a parent who does not have a disability.**

24 **(d) A court may not deny or unreasonably restrict parenting
25 time because one (1) or more parents are persons with a disability,
26 if the parent is otherwise entitled to parenting time under section
27 1 of this chapter.**

28 **(e) If a person alleges that a parent's disability might endanger
29 the child's physical health or significantly impair the child's
30 emotional development, the person making the allegation bears the
31 burden of establishing by clear and convincing evidence that the
32 parent's disability might endanger the child's physical health or
33 significantly impair the child's emotional development.**

34 **(f) If a person makes the showing described in subsection (e), the
35 parent with a disability may present rebuttal evidence
36 demonstrating that the implementation of supportive parenting
37 services will alleviate the issues described in subsection (e). A court
38 may award parenting time to a parent with a disability on the
39 condition that the parent implement supportive parenting services.
40 The court shall review the need for supportive parenting services
41 after a reasonable period of time.**

42 **(g) If a court denies or unreasonably restricts the parenting time**



1 of a parent with a disability, the court shall make specific written
2 findings:

- 3 (1) setting forth the basis for its determination; and
- 4 (2) explaining why the reasonable accommodation of
- 5 supportive parenting services is insufficient to grant
- 6 parenting time, or to grant parenting time that is not
- 7 unreasonably restricted.

8 SECTION 12. IC 31-19-11-1, AS AMENDED BY P.L.142-2020,
9 SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
10 JULY 1, 2021]: Sec. 1. (a) Whenever the court has heard the evidence
11 and finds that:

- 12 (1) the adoption requested is in the best interest of the child;
- 13 (2) the petitioner or petitioners for adoption are of sufficient
- 14 ability to rear the child and furnish suitable support and
- 15 education;
- 16 (3) the report of the investigation and recommendation under
- 17 IC 31-19-8-5 has been filed;
- 18 (4) the attorney or agency arranging an adoption has filed with the
- 19 court an affidavit prepared by the state department of health under
- 20 IC 31-19-5-16 indicating whether a man is entitled to notice of the
- 21 adoption because the man has registered with the putative father
- 22 registry in accordance with IC 31-19-5;
- 23 (5) proper notice arising under subdivision (4), if notice is
- 24 necessary, of the adoption has been given;
- 25 (6) the attorney or agency has filed with the court an affidavit
- 26 prepared by the state department of health under:
 - 27 (A) IC 31-19-6 indicating whether a record of a paternity
 - 28 determination; or
 - 29 (B) IC 16-37-2-2(g) indicating whether a paternity affidavit
 - 30 executed under IC 16-37-2-2.1;
- 31 has been filed in relation to the child;
- 32 (7) proper consent, if consent is necessary, to the adoption has
- 33 been given;
- 34 (8) the petitioner for adoption is not prohibited from adopting the
- 35 child as the result of an inappropriate criminal history described
- 36 in subsection (c) or (d); and
- 37 (9) the person, licensed child placing agency, or local office that
- 38 has placed the child for adoption has provided the documents and
- 39 other information required under IC 31-19-17 to the prospective
- 40 adoptive parents;

41 the court shall grant the petition for adoption and enter an adoption
42 decree.



1 (b) A court may not grant an adoption unless the state department
2 of health's affidavit under IC 31-19-5-16 is filed with the court as
3 provided under subsection (a)(4).

4 (c) A juvenile adjudication for an act listed in IC 31-9-2-84.8 that
5 would be a felony if committed by an adult, a conviction of a
6 misdemeanor related to the health and safety of a child, or a conviction
7 of a felony not listed in IC 31-9-2-84.8 by a petitioner for adoption or
8 household member is a permissible basis for the court to deny the
9 petition for adoption. In addition, the court may not grant an adoption
10 if a petitioner for adoption has been convicted of a nonwaivable offense
11 under IC 31-9-2-84.8. However, the court is not prohibited from
12 granting an adoption based upon a felony conviction for:

- 13 (1) a felony under IC 9-30-5;
- 14 (2) battery (IC 35-42-2-1);
- 15 (3) criminal recklessness (IC 35-42-2-2) as a felony;
- 16 (4) criminal confinement (IC 35-42-3-3);
- 17 (5) arson (IC 35-43-1-1);
- 18 (6) nonsupport of a dependent child (IC 35-46-1-5);
- 19 (7) operating a motorboat while intoxicated (IC 35-46-9-6) as a
20 felony;
- 21 (8) a felony involving a weapon under IC 35-47; or
- 22 (9) a felony relating to controlled substances under IC 35-48-4;

23 if the date of the conviction did not occur within the immediately
24 preceding five (5) year period.

25 (d) A court may not grant an adoption if the petitioner is a sex or
26 violent offender (as defined in IC 11-8-8-5) or a sexually violent
27 predator (as defined in IC 35-38-1-7.5).

28 **(e) Section 1.1 of this chapter applies when one (1) or more**
29 **petitioners is a person with a disability.**

30 SECTION 13. IC 31-19-11-1.1 IS ADDED TO THE INDIANA
31 CODE AS A NEW SECTION TO READ AS FOLLOWS
32 [EFFECTIVE JULY 1, 2021]: **Sec. 1.1. (a) This section applies to a**
33 **petition for adoption when one (1) or more petitioners are persons**
34 **with a disability.**

35 **(b) As used in this section, "disability" has the meaning set forth**
36 **in 42 U.S.C. 12102.**

37 **(c) As used in this section, "supportive parenting services"**
38 **means services that may assist a parent with a disability in the**
39 **effective use of techniques and other alternative methods to enable**
40 **the parent to discharge parental responsibilities as successfully as**
41 **a parent who does not have a disability.**

42 **(d) A court may not deny a petition for adoption because one (1)**



1 or more petitioners are persons with a disability, if the court finds
2 under section 1 of this chapter that:

- 3 (1) adoption is otherwise in the best interests of the child;
4 (2) the petitioner or petitioners for adoption have sufficient
5 ability to rear the child and furnish suitable support and
6 education;
7 (3) the other prerequisites described in section 1 of this
8 chapter have been met; and
9 (4) the petitioner or petitioners are not otherwise prohibited
10 from adopting.

11 (e) If a person alleges that a petitioner's disability:

- 12 (1) will have a detrimental effect on a child; or
13 (2) makes the petitioner or petitioners unable to rear the child
14 and furnish suitable support and education;

15 the person making the allegation bears the burden of establishing
16 the allegation by clear and convincing evidence.

17 (f) If a person makes the showing described in subsection (e), the
18 petitioner or petitioners with a disability may present rebuttal
19 evidence demonstrating that the implementation of supportive
20 parenting services will alleviate the issues described in subsection
21 (e). A court shall consider the availability of supportive parenting
22 services in making its determination.

23 (g) If a court denies a petition for adoption by a petitioner or
24 petitioners with a disability, the court shall make specific written
25 findings:

- 26 (1) setting forth the basis for its determination; and
27 (2) explaining why the reasonable accommodation of
28 supportive parenting services is insufficient to grant the
29 petition.

30 SECTION 14. IC 31-27-2-1, AS AMENDED BY P.L.128-2012,
31 SECTION 93, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
32 JULY 1, 2021]: Sec. 1. The department shall perform the following
33 duties:

- 34 (1) Administer the licensing and monitoring of child caring
35 institutions, foster family homes, group homes, and child placing
36 agencies in accordance with this article.
37 (2) Ensure that a criminal history check of an applicant is
38 conducted under IC 31-9-2-22.5 before issuing a license.
39 (3) **Subject to section 1.1 of this chapter**, provide for the
40 issuance, denial, and revocation of licenses.
41 (4) Cooperate with governing bodies of child caring institutions,
42 foster family homes, group homes, and child placing agencies and



1 their staffs to improve standards of child care.

2 (5) Prepare at least biannually a directory of licensees, except for
3 foster family homes, with a description of the program capacity
4 and type of children served that will be distributed to the
5 legislature, licensees, and other interested parties as a public
6 document.

7 (6) Deposit all license application fees collected under section 2
8 of this chapter in the department of child services child care fund
9 established by IC 31-25-2-16.

10 SECTION 15. IC 31-27-2-1.1 IS ADDED TO THE INDIANA
11 CODE AS A NEW SECTION TO READ AS FOLLOWS
12 [EFFECTIVE JULY 1, 2021]: **Sec. 1.1. (a) This section applies to the**
13 **issuance of a license to operate a foster family home to an applicant**
14 **who is a person with a disability.**

15 (b) As used in this section, "disability" has the meaning set forth
16 in 42 U.S.C. 12102.

17 (c) As used in this section, "supportive parenting services"
18 means services that may assist a foster parent with a disability in
19 the effective use of techniques and other alternative methods to
20 enable the parent to discharge parental responsibilities as
21 successfully as a foster parent who does not have a disability.

22 (d) The department may not deny an application for a license to
23 operate a foster family home because the applicant is a person with
24 a disability, if the applicant is otherwise qualified and entitled to
25 the license.

26 (e) If a person alleges that an applicant's disability will have a
27 detrimental effect on the applicant's ability to operate a foster
28 family home, the person making the allegation bears the burden of
29 establishing by clear and convincing evidence that the applicant's
30 disability endangers or will likely endanger the health, safety, or
31 welfare of a child.

32 (f) If a person makes the showing described in subsection (e), the
33 applicant with a disability may present rebuttal evidence
34 demonstrating that the implementation of supportive parenting
35 services will alleviate the issues described in subsection (e). The
36 department may issue a license to operate a foster family home to
37 an applicant with a disability on the condition that the applicant
38 implement supportive parenting services. The department shall
39 review the need for supportive parenting services after a
40 reasonable period of time.

41 (g) If the department refuses to issue a license to operate a foster
42 family home to an applicant with a disability, the department shall



1 **make specific written findings:**

2 **(1) setting forth the basis for the denial; and**

3 **(2) explaining why the reasonable accommodation of**
 4 **supportive parenting services is insufficient to permit issuance**
 5 **of the license.**

6 SECTION 16. IC 31-33-28 IS ADDED TO THE INDIANA CODE
 7 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 8 JULY 1, 2021]:

9 **Chapter 28. Expungement of Invalid Removal Orders Relating**
 10 **to a Person With a Disability**

11 **Sec. 1. As used in this chapter, "disability" has the meaning set**
 12 **forth in 42 U.S.C. 12102.**

13 **Sec. 2. As used in this chapter, "expunge" or "expungement"**
 14 **means:**

15 **(1) the transfer of all information maintained by the**
 16 **department concerning a report, assessment, or**
 17 **determination under this article relating to the unlawful**
 18 **removal of a child to the office of department of child services**
 19 **ombudsman established by IC 4-13-19-3; and**

20 **(2) after transfer to the ombudsman under subdivision (1), the**
 21 **removal, deletion, or destruction of all information**
 22 **maintained by the department concerning a report,**
 23 **assessment, or determination under this article relating to the**
 24 **unlawful removal of a child.**

25 **Sec. 3. As used in this chapter, "information" includes all files**
 26 **and records created or maintained by the department. The term**
 27 **includes the original and copies of documents, correspondence,**
 28 **messages, photographs, videotapes, audio recordings, audiovisual**
 29 **recordings, and any other material contained in electronic, paper,**
 30 **or digital form or in other media.**

31 **Sec. 4. If:**

32 **(1) the department removes, or is a party in an action to**
 33 **remove, a child from the home of a person with a disability;**
 34 **and**

35 **(2) the removal is determined to be contrary to law;**
 36 **the department shall expunge all information relating to the**
 37 **removal not later than thirty (30) days after the opinion or order**
 38 **vacating the removal becomes final.**

