

SENATE BILL No. 330

DIGEST OF INTRODUCED BILL

Citations Affected: IC 31-34-12-2; IC 31-35-2.

Synopsis: Infant born with neonatal abstinence syndrome. Allows the filing of a petition to terminate the parent-child relationship involving a delinquent child or a child in need of services if, in part, the child has been diagnosed with neonatal abstinence syndrome at birth. Allows the filing of a motion to dismiss a petition to terminate the parent-child relationship on the basis of a neonatal abstinence syndrome diagnosis if: (1) the diagnosis is due to medical treatment administered during delivery; (2) the diagnosis is due to a valid prescription held and adhered to by the mother; or (3) the mother, within 90 days of the child's birth, enrolls in a substance abuse treatment or recovery program, receives a postnatal care regimen, and maintains compliance with the program and regimen.

Effective: July 1, 2019.

Ford Jon

January 7, 2019, read first time and referred to Committee on Family and Children Services.



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. 330

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 31-34-12-2 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 2. Except as provided
3 in **IC 31-35-2-4(d) and IC 31-35-2-4.5(d)**, a finding in a proceeding to
4 terminate parental rights must be based upon clear and convincing
5 evidence.

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

- 12 (1) The attorney for the department.
- 13 (2) The child's court appointed special advocate.
- 14 (3) The child's guardian ad litem.
- 15 (b) The petition must meet the following requirements:
 - 16 (1) The petition must be entitled "In the Matter of the Termination
17 of the Parent-Child Relationship of _____, a child, and



- 1 _____, the child's parent (or parents)".
- 2 (2) The petition must allege:
- 3 (A) that one (1) of the following is true:
- 4 (i) The child has been removed from the parent for at least
- 5 six (6) months under a dispositional decree.
- 6 (ii) A court has entered a finding under IC 31-34-21-5.6 that
- 7 reasonable efforts for family preservation or reunification
- 8 are not required, including a description of the court's
- 9 finding, the date of the finding, and the manner in which the
- 10 finding was made.
- 11 (iii) The child has been removed from the parent and has
- 12 been under the supervision of a local office or probation
- 13 department for at least fifteen (15) months of the most recent
- 14 twenty-two (22) months, beginning with the date the child
- 15 is removed from the home as a result of the child being
- 16 alleged to be a child in need of services or a delinquent
- 17 child.
- 18 **(iv) The child has been diagnosed with neonatal**
- 19 **abstinence syndrome at birth;**
- 20 (B) that one (1) of the following is true:
- 21 (i) There is a reasonable probability that the conditions that
- 22 resulted in the child's removal or the reasons for placement
- 23 outside the home of the parents will not be remedied.
- 24 (ii) There is a reasonable probability that the continuation of
- 25 the parent-child relationship poses a threat to the well-being
- 26 of the child.
- 27 (iii) The child has, on two (2) separate occasions, been
- 28 adjudicated a child in need of services;
- 29 (C) that termination is in the best interests of the child; and
- 30 (D) that there is a satisfactory plan for the care and treatment
- 31 of the child.
- 32 (3) If the department intends to file a motion to dismiss under
- 33 section 4.5 of this chapter, the petition must indicate whether at
- 34 least one (1) of the factors listed in section 4.5(d)(1) through
- 35 4.5(d)(3) of this chapter applies and specify each factor that
- 36 would apply as the basis for filing a motion to dismiss the
- 37 petition.
- 38 (c) At the time the petitioner files the verified petition described in
- 39 subsection (b) with the juvenile or probate court, the petitioner shall
- 40 also file a:
- 41 (1) copy of the order approving the permanency plan under
- 42 IC 31-34-21-7 for the child; or



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

3 **(d) The child's parent or parents, or a person described in**
 4 **subsection (a), may file a motion to dismiss the petition to**
 5 **terminate the parent-child relationship if any of the following**
 6 **apply with respect to a child who has been diagnosed with neonatal**
 7 **abstinence syndrome at birth:**

8 **(1) The diagnosis of neonatal abstinence syndrome at birth**
 9 **resulted from medical treatment administered to the birth**
 10 **mother or newborn child during delivery of the child.**

11 **(2) The diagnosis of neonatal abstinence syndrome at birth**
 12 **resulted from a valid prescription held by the birth mother**
 13 **and the birth mother made a good faith effort to adhere to the**
 14 **prescription instructions.**

15 **(3) The birth mother, within ninety (90) days of the child's**
 16 **birth:**

17 **(A) enrolled in a substance abuse treatment or recovery**
 18 **program;**

19 **(B) received a postnatal care regimen from her health care**
 20 **practitioner; and**

21 **(C) maintained, or is maintaining, substantial compliance**
 22 **with the treatment or program and regimen.**

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

29 SECTION 3. IC 31-35-2-8, AS AMENDED BY P.L.128-2012,
 30 SECTION 173, IS AMENDED TO READ AS FOLLOWS
 31 [EFFECTIVE JULY 1, 2019]: Sec. 8. (a) Except as provided in
 32 **sections 4(d) and section 4.5(d)** of this chapter, if the court finds that
 33 the allegations in a petition described in section 4 of this chapter are
 34 true, the court shall terminate the parent-child relationship.

35 (b) If the court does not find that the allegations in the petition are
 36 true, the court shall dismiss the petition.

37 (c) The court shall enter findings of fact that support the entry of the
 38 conclusions required by subsections (a) and (b).

