

SENATE BILL No. 364

DIGEST OF INTRODUCED BILL

Citations Affected: IC 31-33-18-1.5.

Synopsis: Department of child services reporting. Changes the definition of "near fatality" for purposes of the law concerning records relating to a child's death or near fatality to a severe childhood injury or condition that results in the child receiving critical care for at least 24 hours following the child's admission to a critical care unit.

Effective: July 1, 2015.

Broden

January 8, 2015, read first time and referred to Committee on Family & Children Services.



First Regular Session 119th General Assembly (2015)

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 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

SENATE BILL No. 364

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 31-33-18-1.5, AS AMENDED BY P.L.119-2013,
2 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2015]: Sec. 1.5. (a) This section applies to records held by:
4 (1) a local office;
5 (2) the department; or
6 (3) the department of child services ombudsman established by
7 IC 4-13-19-3;
8 regarding a child whose death or near fatality may have been the result
9 of abuse, abandonment, or neglect.
10 (b) For purposes of subsection (a), a child's death or near fatality
11 may have been the result of abuse, abandonment, or neglect if:
12 (1) an entity described in subsection (a) determines that the child's
13 death or near fatality is the result of abuse, abandonment, or
14 neglect; or
15 (2) a prosecuting attorney files:
16 (A) an indictment or information; or



1 (B) a complaint alleging the commission of a delinquent act;
 2 that, if proven, would cause a reasonable person to believe that
 3 the child's death or near fatality may have been the result of
 4 abuse, abandonment, or neglect.

5 Upon the request of any person, or upon its own motion, the court
 6 exercising juvenile jurisdiction in the county in which the child's death
 7 or near fatality occurred shall determine whether the allegations
 8 contained in the indictment, information, or complaint described in
 9 subdivision (2), if proven, would cause a reasonable person to believe
 10 that the child's death or near fatality may have been the result of abuse,
 11 abandonment, or neglect.

12 (c) If the juvenile court finds that the child's death or near fatality
 13 was the result of abuse, abandonment, or neglect, the court shall make
 14 written findings and provide a copy of the findings and the indictment,
 15 information, or complaint described under subsection (b)(2) to the
 16 department.

17 (d) As used in this section:

18 (1) "case" means:

19 (A) any intake report generated by the department;

20 (B) any investigation or assessment conducted by the
 21 department; or

22 (C) ongoing involvement between the department and a child
 23 or family that is the result of:

24 (i) a program of informal adjustment; or

25 (ii) a child in need of services action;

26 for which related records and documents have not been expunged
 27 as required by law or by a court at the time the department is
 28 notified of a fatality or near fatality;

29 (2) "contact" means in person communication about a case in
 30 which:

31 (A) the child who is the victim of a fatality or near fatality is
 32 alleged to be a victim; or

33 (B) the perpetrator of the fatality or near fatality is alleged to
 34 be the perpetrator;

35 (3) "identifying information" means information that identifies an
 36 individual, including an individual's:

37 (A) name, address, date of birth, occupation, place of
 38 employment, and telephone number;

39 (B) employer identification number, mother's maiden name,
 40 Social Security number, or any identification number issued by
 41 a governmental entity;

42 (C) unique biometric data, including the individual's



- 1 fingerprint, voice print, or retina or iris image;
 2 (D) unique electronic identification number, address, or
 3 routing code;
 4 (E) telecommunication identifying information; or
 5 (F) telecommunication access device, including a card, a plate,
 6 a code, an account number, a personal identification number,
 7 an electronic serial number, a mobile identification number, or
 8 another telecommunications service or device or means of
 9 account access; and
 10 (4) "near fatality" has the meaning set forth in 42 U.S.C. 5106a:
 11 **means a severe childhood injury or condition that results in a**
 12 **child receiving critical care for at least twenty-four (24) hours**
 13 **following the child's admission to a critical care unit.**
 14 (e) Unless information in a record is otherwise confidential under
 15 state or federal law, a record described in subsection (a) that has been
 16 redacted in accordance with this section is not confidential and may be
 17 disclosed to any person who requests the record. The person requesting
 18 the record may be required to pay the reasonable expenses of copying
 19 the record.
 20 (f) When a person requests a record described in subsection (a), the
 21 entity having control of the record shall immediately transmit a copy of
 22 the record to the court exercising juvenile jurisdiction in the county in
 23 which the death or near fatality of the child occurred. However, if the
 24 court requests that the entity having control of a record transmit the
 25 original record, the entity shall transmit the original record.
 26 (g) Upon receipt of the record described in subsection (a), the court
 27 shall, within thirty (30) days, redact the record to exclude:
 28 (1) identifying information described in subsection (d)(3)(B)
 29 through (d)(3)(F) of a person; and
 30 (2) all identifying information of a child less than eighteen (18)
 31 years of age.
 32 (h) The court shall disclose the record redacted in accordance with
 33 subsection (g) to any person who requests the record, if the person has
 34 paid:
 35 (1) to the entity having control of the record, the reasonable
 36 expenses of copying under IC 5-14-3-8; and
 37 (2) to the court, the reasonable expenses of copying the record.
 38 (i) The data and information in a record disclosed under this section
 39 must include the following:
 40 (1) A summary of the report of abuse or neglect and a factual
 41 description of the contents of the report.
 42 (2) The date of birth and gender of the child.



- 1 (3) The cause of the fatality or near fatality, if the cause has been
2 determined.
- 3 (4) Whether the department had any contact with the child or the
4 perpetrator before the fatality or near fatality, and, if the
5 department had contact, the following:
- 6 (A) The frequency of the contact with the child or the
7 perpetrator before the fatality or near fatality and the date on
8 which the last contact occurred before the fatality or near
9 fatality.
- 10 (B) A summary of the status of the child's case at the time of
11 the fatality or near fatality, including:
- 12 (i) whether the child's case was closed by the department
13 before the fatality or near fatality; and
- 14 (ii) if the child's case was closed as described under item (i),
15 the date of closure and the reasons that the case was closed.
- 16 (j) The court's determination under subsection (g) that certain
17 identifying information or other information is not relevant to
18 establishing the facts and circumstances leading to the death or near
19 fatality of a child is not admissible in a criminal proceeding or civil
20 action.

