

# SENATE BILL No. 398

---

## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 31-19-26.5.

**Synopsis:** Mandatory adoption subsidy payments. Requires the department of child services (department) to: (1) enter into an agreement with each adoptive parent of a child with special needs who is eligible for an adoption subsidy to provide an adoption subsidy for the child; and (2) allocate to the adoption assistance account funds necessary to make the adoption subsidy payments. Prohibits the department from terminating an adoption subsidy agreement with adoptive parents due to insufficient funds in the adoption assistance account. Makes conforming changes. Repeals a provision that allows the department to: (1) approve new adoption subsidy agreements only for children who are wards of the department at the time the adoption petition is filed; and (2) give priority to funding new adoption subsidy agreements for children who are or were wards of the department; if the department determines that sufficient funds are not available.

**Effective:** July 1, 2019.

---

---

## Niezgodski

---

---

January 14, 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. 398



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 31-19-26.5-3, AS ADDED BY P.L.146-2008,  
2 SECTION 562, IS AMENDED TO READ AS FOLLOWS  
3 [EFFECTIVE JULY 1, 2019]: Sec. 3. **(a)** The department ~~may~~ **shall**  
4 make payments of adoption subsidy under this chapter for the benefit  
5 of a child with special needs if the department has:  
6 (1) either:  
7 (A) entered into a written agreement **under section 10.5 of**  
8 **this chapter** with the adoptive parent or parents, before or at  
9 the time the court enters a final decree of adoption under  
10 IC 31-19-11-1, that specifies the amount, terms, and  
11 conditions of the adoption assistance payments; or  
12 (B) received a written final order in an administrative appeal  
13 in accordance with section 12(4) of this chapter concluding  
14 that the adoptive parents are eligible for a subsidy payable  
15 under this chapter and determining the appropriate subsidy  
16 amount; **and**  
17 ~~(2) determined that sufficient funds are available in the adoption~~



1 assistance account of the state general fund; and can reasonably  
 2 be anticipated to be available in that account during the term of  
 3 the agreement or order; to make the payments as specified in the  
 4 agreement or order; and

5 ~~(3)~~ (2) determined that the child is not eligible for adoption  
 6 assistance under 42 U.S.C. 673.

7 **(b) This section does not prohibit the department from**  
 8 **modifying or terminating an agreement with the adoptive parent**  
 9 **or parents under this chapter. However, the department may not**  
 10 **terminate an agreement with the adoptive parent or parents due to**  
 11 **insufficient funds in the adoption assistance account.**

12 SECTION 2. IC 31-19-26.5-4 IS REPEALED [EFFECTIVE JULY  
 13 1, 2019]. Sec. 4. If the department determines that sufficient funds are  
 14 not or will not be available in the adoption assistance account  
 15 established under this chapter to make adoption subsidy payments to  
 16 adoptive parents of all children who may be eligible for a subsidy  
 17 payable under this chapter, the department may, in accordance with  
 18 procedures established by rules:

19 (1) approve new adoption subsidy agreements only for the benefit  
 20 of children for whom the department has wardship responsibility  
 21 at the time the adoption petition is filed; or

22 (2) give priority to funding new adoption subsidy agreements for  
 23 children for whom the department has had wardship  
 24 responsibility.

25 SECTION 3. IC 31-19-26.5-10, AS ADDED BY P.L.146-2008,  
 26 SECTION 562, IS AMENDED TO READ AS FOLLOWS  
 27 [EFFECTIVE JULY 1, 2019]: Sec. 10. An adoption assistance account  
 28 is established within the state general fund for the purpose of funding  
 29 adoption subsidy payments under this chapter and the state's share of  
 30 adoption assistance payments under 42 U.S.C. 673. The account  
 31 consists of:

32 (1) amounts specifically appropriated to the department by the  
 33 general assembly for adoption assistance;

34 (2) amounts allocated by the department to the adoption  
 35 assistance account from ~~the department~~ funds available to the  
 36 ~~department~~; **in accordance with section 10.5 of this chapter;**  
 37 and

38 (3) any other amounts contributed or paid to the department for  
 39 adoption assistance under this chapter.

40 SECTION 4. IC 31-19-26.5-10.5 IS ADDED TO THE INDIANA  
 41 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 42 [EFFECTIVE JULY 1, 2019]: **Sec. 10.5. (a) The department shall:**



1 (1) enter into a written agreement described under section  
 2 3(a)(1)(A) of this chapter with each adoptive parent of a child  
 3 with special needs who is eligible for an adoption subsidy  
 4 under this chapter; and

5 (2) allocate funds to the adoption assistance account necessary  
 6 to meet the requirements under section 3 of this chapter.

7 (b) This section does not require the department to enter into an  
 8 agreement to:

9 (1) make additional payments under section 6 of this chapter;  
 10 or

11 (2) continue adoption subsidy payments under section 9(b) of  
 12 this chapter.

13 SECTION 5. IC 31-19-26.5-11, AS ADDED BY P.L.146-2008,  
 14 SECTION 562, IS AMENDED TO READ AS FOLLOWS  
 15 [EFFECTIVE JULY 1, 2019]: Sec. 11. (a) ~~In determining the~~  
 16 ~~availability of funds in the adoption assistance account for payments of~~  
 17 ~~adoption subsidies under this chapter, Subject to sections 3 and 10.5~~  
 18 **of this chapter**, the department shall give priority to payments required  
 19 by court orders for county adoption subsidies entered under  
 20 IC 31-19-26 (before its repeal).

21 (b) The provisions of this chapter applicable to continuation,  
 22 modification, or termination of adoption subsidy payments shall apply  
 23 after January 1, 2009, to county adoption subsidy orders entered under  
 24 IC 31-19-26 (before its repeal).

25 SECTION 6. IC 31-19-26.5-12, AS ADDED BY P.L.146-2008,  
 26 SECTION 562, IS AMENDED TO READ AS FOLLOWS  
 27 [EFFECTIVE JULY 1, 2019]: Sec. 12. The department shall adopt  
 28 rules under IC 4-22-2, as needed, to carry out this chapter. The rules  
 29 must include at least the following subjects:

30 (1) The application and determination process for subsidies or  
 31 other assistance provided under this chapter.

32 (2) The standards for determination of a child with special needs.

33 (3) The process for determining the duration, extension,  
 34 modification, and termination of agreements, as provided in  
 35 sections 8 and 9 of this chapter.

36 (4) The procedure for administrative review and appeal of  
 37 determinations made by the department under this chapter.

38 (5) **Subject to sections 3 and 10.5 of this chapter**, the procedure  
 39 for determining availability of funds for new subsidy agreements  
 40 and continuation of existing agreements or orders under this  
 41 chapter and IC 31-19-26 (before its repeal), including any funding  
 42 ~~limitations or priorities as provided in sections 4 and section 11~~



1 of this chapter.

