



February 19, 2019

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## SENATE BILL No. 398

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DIGEST OF SB 398 (Updated February 18, 2019 1:19 pm - DI 110)

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

**Synopsis:** Adoption subsidy payments. Requires, with exceptions, 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. Provides that the amount of adoption subsidy payments may not be less than an amount equal to 50% of the amount that would be payable by the department for the monthly cost of care of the adopted child in a foster family home at the time the adoption subsidy agreement is made or the subsidy is payable under the terms of the agreement, whichever is greater. Makes conforming changes.

**Effective:** July 1, 2019.

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**Niezgodski, Ford Jon,  
Randolph Lonnie M, Breaux,  
Ford J.D.**

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January 14, 2019, read first time and referred to Committee on Family and Children Services.

February 18, 2019, amended, reported favorably — Do Pass; reassigned to Committee on Appropriations.

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SB 398—LS 6926/DI 119





February 19, 2019

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

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

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1 (2) determined that sufficient funds are available in the adoption  
 2 assistance account of the state general fund; and can reasonably  
 3 be anticipated to be available in that account during the term of  
 4 the agreement or order; to make the payments as specified in the  
 5 agreement or order; and

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

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

13 SECTION 2. IC 31-19-26.5-5, AS ADDED BY P.L.146-2008,  
 14 SECTION 562, IS AMENDED TO READ AS FOLLOWS  
 15 [EFFECTIVE JULY 1, 2019]: Sec. 5. The amount of adoption subsidy  
 16 payments under this chapter:

17 (1) may not be less than an amount equal to fifty percent  
 18 (50%) of; and

19 (2) may not exceed;

20 the amount that would be payable by the department for the monthly  
 21 cost of care of the adopted child in a foster family home at the time

22 (1) the adoption subsidy agreement is made or

23 (2) the subsidy is payable under the terms of the agreement,

24 whichever is greater.

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) Subject to section 4 of**



1 **this chapter, the department shall:**

- 2 **(1) enter into a written agreement described under section**  
 3 **3(a)(1)(A) of this chapter with each adoptive parent of a child**  
 4 **with special needs who is eligible for an adoption subsidy**  
 5 **under this chapter; and**  
 6 **(2) allocate funds to the adoption assistance account necessary**  
 7 **to meet the requirements under section 3 of this chapter.**

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

- 10 **(1) make additional payments under section 6 of this chapter;**  
 11 **or**  
 12 **(2) continue adoption subsidy payments under section 9(b) of**  
 13 **this chapter.**

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

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

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

- 31 (1) The application and determination process for subsidies or  
 32 other assistance provided under this chapter.  
 33 (2) The standards for determination of a child with special needs.  
 34 (3) The process for determining the duration, extension,  
 35 modification, and termination of agreements, as provided in  
 36 sections 8 and 9 of this chapter.  
 37 (4) The procedure for administrative review and appeal of  
 38 determinations made by the department under this chapter.  
 39 (5) **Subject to sections 3 and 10.5 of this chapter,** the procedure  
 40 for determining availability of funds for new subsidy agreements  
 41 and continuation of existing agreements or orders under this  
 42 chapter and IC 31-19-26 (before its repeal), including any funding



1 limitations or priorities as provided in sections 4 and 11 of this  
2 chapter.



## COMMITTEE REPORT

Madam President: The Senate Committee on Family and Children Services, to which was referred Senate Bill No. 398, 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, line 3, delete "(a) The" and insert "**(a) Subject to section 4 of this chapter, the**".

Page 2, delete lines 12 through 24, begin a new paragraph and insert:

"SECTION 2. IC 31-19-26.5-5, AS ADDED BY P.L.146-2008, SECTION 562, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 5. The amount of adoption subsidy payments under this chapter:

**(1) may not be less than an amount equal to fifty percent (50%) of; and**

**(2) may not exceed;**

the amount that would be payable by the department for the monthly cost of care of the adopted child in a foster family home at the time

(+) the adoption subsidy agreement is made or

(-) the subsidy is payable under the terms of the agreement,

whichever is greater."

Page 2, line 42, delete "(a) The" and insert "**(a) Subject to section 4 of this chapter, the**".

Page 3, line 42, reset in roman "limitations or".

Page 3, line 42, reset in roman "sections 4 and".

Page 3, line 42, delete "section".

and when so amended that said bill do pass and be reassigned to the Senate Committee on Appropriations.

(Reference is to SB 398 as introduced.)

GROOMS, Chairperson

Committee Vote: Yeas 7, Nays 0.

