

# SENATE BILL No. 402

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 12-15-1.3-19.2; IC 16-49; IC 31-9-2; IC 31-25-2; IC 31-28-7.

**Synopsis:** Family and juvenile law matters. Requires the office of the secretary of family and social services to apply, before July 1, 2022, to the United States Department of Health and Human Services for an amendment to the family and support services Medicaid waiver to create priority status on the waiver for a child who has been adopted. Requires the statewide child fatality review coordinator to provide a data collection form to each local child fatality review team. Provides that the data collection form must mirror the information in the National Fatality Review Case Reporting System Version 5.0 CDR Report Form. Provides that the definition of child abuse or neglect does not refer to a person who identifies a child by the child's biological sex. Requires the department of child services (department) to include in its annual report certain additional information concerning child fatalities. Requires the department to: (1) collect certain disability identification data; (2) create a report concerning the collected data; (3) provide the report to the legislative council; and (4) adopt rules to implement these provisions. Requires the department, before beginning a trial home visit, to conduct a criminal history check on certain individuals, determine whether any of those individuals have prior department history, and establish a safety plan and child care plan. Requires the department to conduct at least one unannounced home visit each week while a child is on a trial home visit. Makes an appropriation to the state department of health to fund additional staff to support local child fatality review teams. Makes conforming changes.

**Effective:** Upon passage; July 1, 2022.

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January 12, 2022, read first time and referred to Committee on Family and Children Services.

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Second Regular Session of the 122nd General Assembly (2022)

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 2021 Regular Session of the General Assembly.

# SENATE BILL No. 402

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law and to make an appropriation.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 12-15-1.3-19.2 IS ADDED TO THE INDIANA  
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
3 [EFFECTIVE UPON PASSAGE]: **Sec. 19.2. (a) Before July 1, 2022,**  
4 **the office of the secretary shall apply to the United States**  
5 **Department of Health and Human Services for an amendment to**  
6 **the family and support services Medicaid waiver to create priority**  
7 **status on the waiver for a child who has been adopted.**  
8 (b) The office of the secretary may not implement the  
9 amendment until the office files an affidavit with the governor  
10 attesting that the amendment applied for under this section is in  
11 effect. The office of the secretary shall file the affidavit under this  
12 subsection not more than five (5) days after the office is notified  
13 that the amendment is approved.  
14 (c) If the office of the secretary receives approval for the  
15 amendment under this section from the United States Department  
16 of Health and Human Services and the governor receives the  
17 affidavit filed under subsection (b), the office shall implement the



1 **amendment not more than sixty (60) days after the governor**  
 2 **receives the affidavit.**

3 **(d) The office of the secretary may adopt rules under IC 4-22-2**  
 4 **to implement this section.**

5 SECTION 2. IC 16-49-3-14 IS ADDED TO THE INDIANA CODE  
 6 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 7 1, 2022]: **Sec. 14. There is annually appropriated from the state**  
 8 **general fund to the state department funds sufficient to provide**  
 9 **staff to the state department to support local child fatality review**  
 10 **teams established under this article.**

11 SECTION 3. IC 16-49-5-2, AS ADDED BY P.L.119-2013,  
 12 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 13 JULY 1, 2022]: **Sec. 2. (a) The state child fatality review coordinator**  
 14 **shall develop a data collection form that includes:**

- 15 (1) identifying and nonidentifying information;  
 16 (2) information regarding the circumstances surrounding a death;  
 17 (3) factors contributing to a death; and  
 18 (4) findings and recommendations that include the following  
 19 information:

20 (A) Whether similar future deaths could be prevented.

21 (B) A list of:

- 22 (i) agencies and entities that should be involved; and  
 23 (ii) any other resources that should be used;

24 to adequately prevent future child deaths in the area.

25 (b) The state child fatality review coordinator shall develop a  
 26 confidentiality form for use by the statewide child fatality review  
 27 committee and local child fatality review teams.

28 **(c) The data collection form developed under this section must**  
 29 **mirror the information contained in the National Fatality Review**  
 30 **Case Reporting System Version 5.0 CDR Report Form.**

31 **(d) The state child fatality review coordinator shall provide the**  
 32 **data collection form described in this section to each local child**  
 33 **fatality review team.**

34 SECTION 4. IC 31-9-2-14, AS AMENDED BY P.L.46-2016,  
 35 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 36 JULY 1, 2022]: **Sec. 14. (a) "Child abuse or neglect", for purposes of**  
 37 **IC 31-32-11-1, IC 31-33, IC 31-34-7-4, and IC 31-39-8-4, refers to a**  
 38 **child described in IC 31-34-1-1 through IC 31-34-1-5 and IC 31-34-1-8**  
 39 **through IC 31-34-1-11, regardless of whether the child needs care,**  
 40 **treatment, rehabilitation, or the coercive intervention of a court.**

41 (b) For purposes of subsection (a), the term under subsection (a)  
 42 does not refer to a child who is alleged to be a victim of a sexual



1 offense under IC 35-42-4-3 unless the alleged offense under  
 2 IC 35-42-4-3 involves the fondling or touching of the buttocks,  
 3 genitals, or female breasts, regardless of whether the child needs care,  
 4 treatment, rehabilitation, or the coercive intervention of a court.

5 (c) "Child abuse or neglect", for purposes of IC 31-34-2.3, refers to  
 6 acts or omissions by a person against a child as described in  
 7 IC 31-34-1-1 through IC 31-34-1-11, regardless of whether the child  
 8 needs care, treatment, rehabilitation, or the coercive intervention of a  
 9 court.

10 (d) **"Child abuse or neglect" does not refer to a person who**  
 11 **identifies a child by the child's biological sex.**

12 SECTION 5. IC 31-9-2-40.7 IS ADDED TO THE INDIANA CODE  
 13 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 14 1, 2022]: **Sec. 40.7. "Disability identification data", for purposes of**  
 15 **IC 31-25-2-27, means data concerning a person's identification as**  
 16 **a person with a disability, including the following:**

- 17 (1) **A cognitive disability.**
- 18 (2) **A mental or emotional disability.**
- 19 (3) **A physical disability.**
- 20 (4) **A hearing disability.**
- 21 (5) **A vision disability.**
- 22 (6) **Multiple disabilities.**
- 23 (7) **Another disability a person identifies as having.**
- 24 (8) **Another disability, as determined by the department.**

25 SECTION 6. IC 31-9-2-53.5 IS ADDED TO THE INDIANA CODE  
 26 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 27 1, 2022]: **Sec. 53.5. "Identify", for purposes of IC 31-25-2-27,**  
 28 **means to describe oneself as belonging to a particular category.**

29 SECTION 7. IC 31-9-2-130.4 IS ADDED TO THE INDIANA  
 30 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 31 [EFFECTIVE JULY 1, 2022]: **Sec. 130.4. "Trial home visit", for**  
 32 **purposes of IC 31-28-7, has the meaning set forth in IC 31-28-7-1.**

33 SECTION 8. IC 31-25-2-24, AS AMENDED BY P.L.148-2021,  
 34 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 35 JULY 1, 2022]: **Sec. 24. (a) Before December 31 of each year, the**  
 36 **department shall annually prepare a report concerning all child**  
 37 **fatalities in Indiana that are the result of child abuse or neglect in the**  
 38 **preceding calendar year. The report must include the following**  
 39 **information:**

- 40 (1) **A summary of the information gathered concerning child**  
 41 **fatalities resulting from abuse or neglect.**
- 42 (2) **Demographic information regarding victims, perpetrators, and**



- 1 households involved in child fatalities resulting from abuse or  
 2 neglect.
- 3 (3) An analysis of the primary risk factors involved in child  
 4 fatalities resulting from abuse or neglect.
- 5 (4) A summary of the most frequent causes of child fatalities  
 6 resulting from abuse or neglect.
- 7 (5) A description of the manner in which the information was  
 8 assembled.
- 9 The department shall post the report prepared under this section on the  
 10 department's Internet web site.
- 11 (b) As part of the summary of information described in subsection  
 12 (a)(1), the report must include whether any of the following apply:
- 13 (1) The child's death occurred while the child was placed in foster  
 14 care **or residential care.**
- 15 (2) The child's death occurred after the child, who was once  
 16 placed in foster care, was returned to a natural parent.
- 17 (3) The child was a ward of the department at the time of the  
 18 event that led to the child's death.
- 19 **(4) The child's death occurred while the child:**
- 20 **(A) was alleged or adjudicated to be a child in need of**  
 21 **services under IC 31-34-1;**
- 22 **(B) was alleged or adjudicated to be a child in need of**  
 23 **services under IC 31-34-1 and ordered to remain in the**  
 24 **child's home;**
- 25 **(C) was on a trial home visit; or**
- 26 **(D) was the subject of a program of informal adjustment.**
- 27 **(c) As part of the annual report required by subsection (a),**  
 28 **before December 31 of each year, the department shall report:**
- 29 **(1) the number of children who died in Indiana in the**  
 30 **preceding calendar year;**
- 31 **(2) the cause or manner of each death;**
- 32 **(3) the number of children with prior department history who**  
 33 **died in Indiana in the preceding calendar year and who died**  
 34 **from a cause other than abuse or neglect;**
- 35 **(4) the number of children with prior department history who**  
 36 **died in Indiana in the preceding calendar year and who died**  
 37 **as a result of abuse or neglect;**
- 38 **(5) for each case of a child included under subdivisions (3) and**  
 39 **(4), whether the case was substantiated or unsubstantiated;**  
 40 **and**
- 41 **(6) for each case of a child included under subdivision (4), the**  
 42 **child's relationship to the perpetrator.**



1           (e) **(d)** Not later than January 31 of each year, the department shall  
 2 provide to the executive director of the legislative services agency, for  
 3 distribution to the interim study committee on child services, a copy of  
 4 the most recent annual report prepared by the department under this  
 5 section. The report provided to the executive director of the legislative  
 6 services agency under this subsection must be in an electronic format  
 7 under IC 5-14-6.

8           SECTION 9. IC 31-25-2-27 IS ADDED TO THE INDIANA CODE  
 9 AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY  
 10 1, 2022]: **Sec. 27. (a) The department shall collect disability**  
 11 **identification data for each parent:**

12                   **(1) who is reported to;**

13                   **(2) who is investigated by; or**

14                   **(3) whose child is receiving services from;**

15 **the department.**

16           **(b) Except as provided in subsection (c), disability identification**  
 17 **data collected under this section is confidential.**

18           **(c) Before November 1, 2022, and before November 1 of each**  
 19 **year thereafter, the department shall prepare a report**  
 20 **summarizing the aggregate data from the data collected under**  
 21 **subsection (a). The report must include the following information:**

22                   **(1) The number of parents who identify as a person with a**  
 23 **disability.**

24                   **(2) The disability each parent identifies as having.**

25           **(d) The department may not include any identifying information**  
 26 **in the annual report required by this section.**

27           **(e) Before November 1 of each year, the department shall**  
 28 **provide to the legislative council a copy of the most recent annual**  
 29 **report required by this section. The report must be in an electronic**  
 30 **format under IC 5-14-6.**

31           **(f) The department shall adopt rules under IC 4-22-2 to**  
 32 **implement this section.**

33           SECTION 10. IC 31-28-7 IS ADDED TO THE INDIANA CODE  
 34 AS A **NEW CHAPTER TO READ AS FOLLOWS** [EFFECTIVE  
 35 JULY 1, 2022]:

36           **Chapter 7. Trial Home Visits**

37           **Sec. 1. As used in this chapter, "trial home visit" means a**  
 38 **temporary return of a child to the home of a parent or guardian**  
 39 **from which the child was removed, in accordance with 45 CFR**  
 40 **1365.21(e).**

41           **Sec. 2. Before beginning a trial home visit for a child, the**  
 42 **department shall do the following:**



- 1           **(1) Conduct a criminal history check (as defined in**
- 2           **IC 31-9-2-22.5) for each person who is residing in the home.**
- 3           **(2) Determine whether each person residing in the home has**
- 4           **prior substantiated department history.**
- 5           **(3) Create a safety plan for the child and complete a safety**
- 6           **plan form.**
- 7           **(4) Establish a plan for the provision of child care when a**
- 8           **child's parent, guardian, or custodian is not present.**
- 9           **Sec. 3. The department shall make at least one (1) unannounced**
- 10          **home visit each week while a child is on a trial home visit.**
- 11          **SECTION 11. An emergency is declared for this act.**

