

SENATE BILL No. 431

DIGEST OF INTRODUCED BILL

Citations Affected: IC 31-34.

Synopsis: Child placement. Provides that the best interests of the child must be considered in determining placement of an alleged child in need of services who has been taken into custody. Provides that a court shall grant a petition to request intervention as a party to a child in need of services proceeding from: (1) a foster parent; (2) a long term foster parent; or (3) a former foster parent; if the court determines intervention is in the best interests of the child. Provides that before a child who was: (1) placed in an out-of-home placement; and (2) moved from the out-of-home placement to an in-home placement; may be returned to an out-of-home placement, the court and the department shall make a reasonable attempt to place the child in the previous out-of-home placement.

Effective: July 1, 2019.

Ford J.D.

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. 431

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 31-34-4-2, AS AMENDED BY P.L.183-2017,
2 SECTION 42, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2019]: Sec. 2. (a) If a child alleged to be a child in need of
4 services is taken into custody under an order of the court under this
5 chapter and the court orders out-of-home placement, the department is
6 responsible for that placement and care and must consider placing the
7 child with a:
8 (1) suitable and willing relative; or
9 (2) de facto custodian;
10 before considering any other out-of-home placement. **In determining**
11 **placement of the child, the department shall consider the best**
12 **interests of the child.**
13 (b) The department shall consider placing a child described in
14 subsection (a) with a relative related by blood, marriage, or adoption
15 before considering any other placement of the child. **In determining**
16 **placement of the child, the department shall consider the best**
17 **interests of the child.**



1 (c) Before the department places a child in need of services with a
 2 relative or a de facto custodian, the department shall complete an
 3 evaluation based on a home visit of the relative's home.

4 (d) Except as provided in subsection (f), before placing a child in
 5 need of services in an out-of-home placement, the department shall
 6 conduct a criminal history check of each person who is currently
 7 residing in the location designated as the out-of-home placement.

8 (e) Except as provided in subsection (g), the department may not
 9 make an out-of-home placement if a person described in subsection (d)
 10 has:

11 (1) committed an act resulting in a substantiated report of child
 12 abuse or neglect; or

13 (2) been convicted of a nonwaivable offense, as defined in
 14 IC 31-9-2-84.8 or had a juvenile adjudication for an act that
 15 would be a nonwaivable offense, as defined in IC 31-9-2-84.8 if
 16 committed by an adult.

17 (f) The department is not required to conduct a criminal history
 18 check under subsection (d) if the department makes an out-of-home
 19 placement to an entity or a facility that is not a residence (as defined in
 20 IC 3-5-2-42.5) or that is licensed by the state.

21 (g) A court may order or the department may approve an
 22 out-of-home placement if:

23 (1) a person described in subsection (d) has:

24 (A) committed an act resulting in a substantiated report of
 25 child abuse or neglect;

26 (B) been convicted of:

27 (i) battery (IC 35-42-2-1);

28 (ii) criminal confinement (IC 35-42-3-3) as a felony;

29 (iii) carjacking (IC 35-42-5-2) (repealed) as a felony;

30 (iv) arson (IC 35-43-1-1) as a felony;

31 (v) a felony involving a weapon under IC 35-47 or
 32 IC 35-47.5;

33 (vi) a felony relating to controlled substances under
 34 IC 35-48-4;

35 (vii) a felony under IC 9-30-5; or

36 (viii) a felony that is substantially equivalent to a felony
 37 listed in this clause for which the conviction was entered in
 38 another jurisdiction;

39 if the conviction did not occur within the past five (5) years; or

40 (C) had a juvenile adjudication for a nonwaivable offense, as
 41 defined in IC 31-9-2-84.8 that, if committed by an adult,
 42 would be a felony; and



1 (2) the person's commission of the offense, delinquent act, or act
 2 of abuse or neglect described in subdivision (1) is not relevant to
 3 the person's present ability to care for a child, and the placement
 4 is in the best interest of the child.

5 However, a court or the department may not make an out-of-home
 6 placement if the person has been convicted of a nonwaivable offense,
 7 as defined in IC 31-9-2-84.8 that is not specifically excluded under
 8 subdivision (1)(B).

9 (h) In considering the placement under subsection (g), the court or
 10 the department shall consider the following:

11 (1) The length of time since the person committed the offense,
 12 delinquent act, or abuse or neglect.

13 (2) The severity of the offense, delinquent act, or abuse or neglect.

14 (3) Evidence of the person's rehabilitation, including the person's
 15 cooperation with a treatment plan, if applicable.

16 **(i) In determining any out-of-home placement under this**
 17 **section, the best interests of the child must be balanced with**
 18 **maintaining the most family like setting available. A court is not**
 19 **required to place a child in an out-of-home placement under this**
 20 **section if it finds that the placement would be contrary to the best**
 21 **interests of the child.**

22 SECTION 2. IC 31-34-6-2, AS AMENDED BY P.L.123-2014,
 23 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 24 JULY 1, 2019]: Sec. 2. (a) A juvenile court or the department shall
 25 consider placing a child alleged to be a child in need of services with
 26 a suitable and willing relative or de facto custodian of the child before
 27 considering any other placement for the child. **In determining**
 28 **placement of the child, the juvenile court or the department shall**
 29 **consider the best interests of the child.**

30 (b) A juvenile court or the department shall consider placing a child
 31 described in subsection (a) with a relative related by blood, marriage,
 32 or adoption before considering any other placement of the child. **In**
 33 **determining placement of the child, the juvenile court or the**
 34 **department shall consider the best interests of the child.**

35 (c) Before a child is placed with a relative or de facto custodian, a
 36 home evaluation and background checks described in IC 31-34-4-2 are
 37 required.

38 SECTION 3. IC 31-34-21-4.5, AS AMENDED BY P.L.183-2017,
 39 SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 40 JULY 1, 2019]: Sec. 4.5. (a) Except as provided in subsection (b) a
 41 foster parent, long term foster parent, or a person who has been a foster
 42 parent may petition the court to request intervention as a party to a



1 proceeding described in this chapter.

2 (b) A foster parent who has been:

- 3 (1) the subject of a substantiated report of child abuse or neglect;
 4 or
 5 (2) convicted of a nonwaivable offense, as defined in
 6 IC 31-9-2-84.8;

7 may not petition the court to intervene under this section.

8 (c) A court ~~may~~ **shall** grant a petition filed under this section if the
 9 court determines that intervention of the petitioner is in the best
 10 interests of the child.

11 SECTION 4. IC 31-34-21-5.5, AS AMENDED BY P.L.48-2012,
 12 SECTION 64, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 13 JULY 1, 2019]: Sec. 5.5. (a) In determining the extent to which
 14 reasonable efforts to reunify or preserve a family are appropriate under
 15 this chapter, the child's health and safety are of paramount concern.

16 (b) Except as provided in section 5.6 of this chapter, the department
 17 shall make reasonable efforts to preserve and reunify families as
 18 follows:

- 19 (1) If a child has not been removed from the child's home, to
 20 prevent or eliminate the need for removing the child from the
 21 child's home.
 22 (2) If a child has been removed from the child's home, to make it
 23 possible for the child to return safely to the child's home as soon
 24 as possible **consistent with the best interests of the child.**

25 (c) The department may, before reunification of the child with a
 26 parent, guardian, or custodian, conduct a criminal history check (as
 27 defined in IC 31-9-2-22.5) of:

- 28 (1) the child's:
 29 (A) parent;
 30 (B) guardian; or
 31 (C) custodian; or
 32 (2) a household member of the:
 33 (A) parent;
 34 (B) guardian; or
 35 (C) custodian.

36 (d) The department may use the results of a criminal history check
 37 conducted under subsection (c) to decide whether it is safe for the child
 38 to return home.

39 SECTION 5. IC 31-34-23-5 IS ADDED TO THE INDIANA CODE
 40 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 41 1, 2019]: **Sec. 5. If a child who was:**

- 42 (1) **placed in an out-of-home placement during child in need**



1 **of services proceedings; and**
2 **(2) moved from the out-of-home placement to an in-home**
3 **placement;**
4 **is returned to an out-of-home placement, the court and the**
5 **department shall make a reasonable attempt to place the child in**
6 **the out-of-home placement in which the child was placed under**
7 **subdivision (1).**

