

February 18, 1998

**ENGROSSED
SENATE BILL No. 425**

DIGEST OF SB 425 (Updated February 17, 1998 3:48 pm - DI 76)

Citations Affected: IC 12-13; IC 31-9; IC 31-10; IC 31-19; IC 31-33; IC 31-34; IC 31-35; IC 31-40; IC 33-19; noncode.

Synopsis: Adoption and safe families act. Requires that whenever a hearing is requested on a petition to involuntarily terminate the parent-child relationship, a court must conduct the hearing not more than 90 days after the petition is filed unless the court makes specific written findings as to why completing the trial is not reasonably possible. Applies this requirement to proceedings to involuntarily terminate the parent-child relationship involving: (1) a child in need of services or a delinquent child; or (2) a parent who has been convicted of a certain
(Continued next page)

Effective: July 1, 1998; July 1, 1999.

**Clark, Rogers, Miller, Lanane, Kenley,
Merritt, Breaux, Randolph, Alexa, Wyss,
Howard, Gard, Skillman, Ford, Long,
Wolf, Simpson**

(HOUSE SPONSORS — KLINKER, LINDER, KROMKOWSKI, AVERY)

January 13, 1998, read first time and referred to Committee on Judiciary.
January 22, 1998, amended, reported favorably — Do Pass.
January 26, 1998, reassigned to Committee on Finance.
January 29, 1998, reported favorably — Do Pass.
February 2, 1998, read second time, amended, ordered engrossed.
February 3, 1998, engrossed. Read third time, passed. Yeas 50, nays 0.

HOUSE ACTION

February 10, 1998, read first time and referred to Committee on Judiciary.
February 17, 1998, amended, reported — Do Pass.

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offense. (Under current law, the court is not required to conduct the involuntary termination hearing within a specified period after the petition is filed.) Extends the right to notice and the opportunity to be heard at a child's periodic case review, including a permanency hearing, in a child in need of services proceeding and at any hearings in an involuntary termination proceeding with respect to the child to the following persons: (1) The child's foster parent. (2) A prospective adoptive parent named in a petition for adoption under certain circumstances. (3) Any other person who the county office of family and children knows is currently providing care for the child. (4) Any other suitable relative or other guardian or custodian. Retains the county office of family and children's responsibility to send notice of a child's periodic case review to each party in a child in need of services proceeding in which the original dispositional decree was issued. Requires that whenever a petition to terminate the parent-child relationship has been filed or authorized concerning a child in need of services, the division of family and children shall post certain nonidentifying information about the child on the Internet in order to facilitate a potential adoptive placement of the child. Provides that, in an effort to facilitate a permanent placement for the child, the county office of family and children may contract with a licensed child placing agency to assume the county office's role in the child in need of services proceeding provided that the state has retained its jurisdiction over the child for more than 12 months after: (1) the child has been removed from the home; or (2) the court enters its original dispositional decree. Requires a petition to terminate the parent-child relationship to be filed and a hearing on the petition to be conducted if: (1) a child in need of services has been in a certain out-of-home placement for at least 15 months out of the most recent 22 months; or (2) a court has made a finding that reasonable efforts for family preservation or reunification with respect to a child in need of services are not required, except if the child is being cared for by a relative under certain circumstances or if a court determines that filing the termination petition would not be in the child's best interests. Allows the county office of family and children to file a petition or motion requesting that the court not terminate the parent-child relationship in the above-named circumstances if: (1) the child is being cared for by a certain relative; (2) termination would not be in the child's best interests; (3) the county office of family and children has not provided adequate services to the child; or (4) the completion of the program for family services has not expired. Provides for certain standards and procedures to apply whenever it is mandatory to file a petition to terminate the parent-child relationship. Provides for certain phase-in deadlines applicable to when certain mandatory termination proceedings must begin to be conducted. Confers upon the division of family and children the duty to provide permanency planning services to children in need of services, including making children available for adoption and placing children in adoptive homes in a timely manner. Waives court costs and fees in adoption proceedings if a petitioner seeks to adopt a child less than 18 years of age who has been adjudicated a child in need of services and who is a ward of a county office of family and children at the time of the filing of the adoption petition. Expands the policy of the state and purpose statement of the juvenile code to include providing adoption as a viable permanency plan for children who have been adjudicated as children in need of services. Provides that if after the child's fourth periodic case review has been conducted, the county office of family and children determines that the child has not significantly improved in certain areas, the county office of family and children shall establish a permanency plan for the child regarding adoption, permanent

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guardianship, or certain other permanent care. Provides that reasonable efforts to reunify or preserve a child's family are not required if the child's parent, guardian, or custodian has been convicted of certain offenses against the child or the spouse or the child's parent, guardian, or custodian. Requires a juvenile court to review a child's case once every six months until a petition for adoption is filed whenever the juvenile or probate court terminates the parent-child relationship with regard to the child. Requires that during each periodic case review of a child in need of services certain written documentation must be provided describing the family services that have been offered or provided. Provides that adoption incentive payments paid to Indiana under the federal Adoption and Safe Families Act must be used to facilitate the adoption of children who are in need of services and may be used for postadoption services.

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February 18, 1998

Second Regular Session 110th General Assembly (1998)

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 1997 General Assembly.

ENGROSSED SENATE BILL No. 425

A BILL FOR AN ACT to amend the Indiana Code concerning family law.

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

- 1 SECTION 1. IC 12-13-5-1, AS AMENDED BY P.L.1-1997,
2 SECTION 53, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 1998]: Sec. 1. The division shall administer or supervise the
4 public welfare activities of the state. The division has the following
5 powers and duties:
6 (1) The administration of old age assistance, aid to dependent
7 children, and assistance to the needy blind and persons with
8 disabilities, excluding assistance to children with special health
9 care needs.
10 (2) The administration of the following:
11 (A) Any public child welfare service.
12 (B) The licensing and inspection under IC 12-17.2 and
13 IC 12-17.4.
14 (C) The care of dependent and neglected children in foster
15 family homes or institutions, especially children placed for
16 adoption or those born out of wedlock.

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- (D) The interstate placement of children.
- (3) The provision of services to county governments, including the following:
 - (A) Organizing and supervising county offices for the effective administration of public welfare functions.
 - (B) Compiling statistics and necessary information concerning public welfare problems throughout Indiana.
 - (C) Researching and encouraging research into crime, delinquency, physical and mental disability, and the cause of dependency.
- (4) Prescribing the form of, printing, and supplying to the county departments blanks for applications, reports, affidavits, and other forms the division considers necessary and advisable.
- (5) Cooperating with the federal Social Security Administration and with any other agency of the federal government in any reasonable manner necessary and in conformity with IC 12-13 through IC 12-19 to qualify for federal aid for assistance to persons who are entitled to assistance under the federal Social Security Act. The responsibilities include the following:
 - (A) Making reports in the form and containing the information that the federal Social Security Administration Board or any other agency of the federal government requires.
 - (B) Complying with the requirements that a board or agency finds necessary to assure the correctness and verification of reports.
- (6) Appointing from eligible lists established by the state personnel board employees of the division necessary to effectively carry out IC 12-13 through IC 12-19. The division may not appoint a person who is not a citizen of the United States and who has not been a resident of Indiana for at least one (1) year immediately preceding the person's appointment unless a qualified person cannot be found in Indiana for a position as a result of holding an open competitive examination.
- (7) Assisting the office of Medicaid policy and planning in fixing fees to be paid to ophthalmologists and optometrists for the examination of applicants for and recipients of assistance as needy blind persons.
- (8) When requested, assisting other departments, agencies, divisions, and institutions of the state and federal government in performing services consistent with this article.
- (9) Acting as the agent of the federal government for the following:

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- 1 (A) In welfare matters of mutual concern under IC 12-13
2 through IC 12-19.
- 3 (B) In the administration of federal money granted to Indiana
4 in aiding welfare functions of the state government.
- 5 (10) Administering additional public welfare functions vested in
6 the division by law and providing for the progressive codification
7 of the laws the division is required to administer.
- 8 (11) Transferring to each county that is required to submit a
9 schedule under IC 12-19-1-9(d) an amount equal to the scheduled
10 amount of the county's lease and rental obligations as provided in
11 IC 12-19-1-9.
- 12 (12) Supervising day care centers and child placing agencies.
- 13 (13) Supervising the licensing and inspection of all public child
14 caring agencies.
- 15 (14) Supervising the care of delinquent children and children in
16 need of services.
- 17 (15) Assisting juvenile courts as required by IC 31-30 through
18 IC 31-40.
- 19 (16) Supervising the care of dependent children and children
20 placed for adoption.
- 21 (17) Compiling information and statistics concerning the ethnicity
22 and gender of a program or service recipient.
- 23 **(18) Providing permanency planning services for children in
24 need of services, including:**
- 25 (A) making children legally available for adoption; and
26 (B) placing children in adoptive homes;
27 **in a timely manner.**
- 28 SECTION 2. IC 31-9-2-0.5 IS ADDED TO THE INDIANA CODE
29 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
30 1, 1998]: **Sec. 0.5. "Abandoned infant", for purposes of
31 IC 31-34-21-5.6, means a child who is less than twelve (12) months
32 of age and whose parent, guardian, or custodian:**
- 33 **(1) has knowingly or intentionally left the child in:**
- 34 **(A) an environment that endangers the child's life or
35 health; or**
- 36 **(B) a hospital or medical facility; and**
- 37 **(2) has no reasonable plan to assume the care, custody, and
38 control of the child.**
- 39 SECTION 3. IC 31-10-2-1, AS ADDED BY P.L.1-1997, SECTION
40 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
41 1998]: Sec. 1. It is the policy of this state and the purpose of this title
42 to:

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- 1 (1) recognize the importance of family and children in our
 2 society;
 3 (2) recognize the responsibility of the state to enhance the
 4 viability of children and family in our society;
 5 (3) acknowledge the responsibility each person owes to the other;
 6 (4) strengthen family life by assisting parents to fulfill their
 7 parental obligations;
 8 (5) ensure that children within the juvenile justice system are
 9 treated as persons in need of care, protection, treatment, and
 10 rehabilitation;
 11 (6) remove children from families only when it is in the child's
 12 best interest or in the best interest of public safety;
 13 **(7) provide for adoption as a viable permanency plan for**
 14 **children who are adjudicated children in need of services;**
 15 ~~(7)~~ **(8)** provide a juvenile justice system that protects the public
 16 by enforcing the legal obligations that children have to society
 17 and society has to children;
 18 ~~(8)~~ **(9)** use diversionary programs when appropriate;
 19 ~~(9)~~ **(10)** provide a judicial procedure that:
 20 (A) ensures fair hearings;
 21 (B) recognizes and enforces the legal rights of children and
 22 their parents; and
 23 (C) recognizes and enforces the accountability of children and
 24 parents;
 25 ~~(10)~~ **(11)** promote public safety and individual accountability by
 26 the imposition of appropriate sanctions; and
 27 ~~(11)~~ **(12)** provide a continuum of services developed in a
 28 cooperative effort by local governments and the state.
 29 SECTION 4. IC 31-19-2-8, AS ADDED BY P.L.1-1997, SECTION
 30 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
 31 1998]: Sec. 8. **(a)** Unless the petitioner for adoption seeks under section
 32 1 of this chapter to adopt a person who is at least eighteen (18) years
 33 of age, **and except as provided in subsection (b)**, the petitioner for
 34 adoption must attach to the petition for adoption:
 35 (1) an adoption history fee of twenty dollars (\$20) payable to the
 36 state department of health; and
 37 (2) a putative father registry fee of fifty dollars (\$50) payable to
 38 the state department of health for administering the putative father
 39 registry established by IC 31-19-5.
 40 **(b) The adoption history fee and putative father registry fee**
 41 **under subsection (a) are waived if a petitioner seeks to adopt:**
 42 **(1) a person who is at least eighteen (18) years of age under**

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1 **IC 31-19-2-1; or**

2 **(2) a child less than eighteen (18) years of age who is:**

3 **(A) adjudicated a child in need of services; and**

4 **(B) a ward of a county office of family and children;**

5 **at the time of the filing of the petition for adoption.**

6 SECTION 5. IC 31-33-8-9, AS ADDED BY P.L.1-1997, SECTION
7 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
8 1998]: Sec. 9. (a) The local child protection service's report under
9 section 7 8 of this chapter shall be made available to:

10 (1) the appropriate court;

11 (2) the prosecuting attorney; or

12 (3) the appropriate law enforcement agency;

13 upon request.

14 **(b) If child abuse or neglect is substantiated after an**
15 **investigation is conducted under section 7 of this chapter, the local**
16 **child protection service shall forward its report to the office of the**
17 **prosecuting attorney having jurisdiction in the county in which the**
18 **alleged child abuse or neglect occurred.**

19 ~~(b)~~ (c) If the investigation substantiates a finding of child abuse or
20 neglect as determined by the local child protection service, a report
21 shall be sent to the coordinator of the community child protection team
22 under IC 31-33-3.

23 SECTION 6. IC 31-34-12-2, AS ADDED BY P.L.1-1997,
24 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
25 JULY 1, 1998]: Sec. 2. **Except as provided in IC 31-35-2-4.7(c)**, a
26 finding in a proceeding to terminate parental rights must be based upon
27 clear and convincing evidence.

28 SECTION 7. IC 31-34-21-2, AS ADDED BY P.L.1-1997,
29 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
30 JULY 1, 1998]: Sec. 2. (a) In accordance with federal law, the case of
31 each child in need of services under the supervision of the county
32 office of family and children must be reviewed at least once every six
33 (6) months, or more often, if ordered by the court.

34 (b) The first of these periodic case reviews must occur:

35 (1) at least six (6) months after the date of the child's removal
36 from the child's parent, guardian, or custodian; or

37 (2) at least six (6) months after the date of the dispositional
38 decree;

39 whichever comes first.

40 (c) ~~A~~ **Each periodic case review may must be conducted either by**

41 ~~(1) an administrative panel appointed by the director of the county~~
42 ~~office of family and children; or~~

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1 (2) the juvenile court in a formal court hearing.

2 (d) If a panel is appointed under subsection (c), at least one (1) of
3 the members must be free from responsibility for the case management
4 or the delivery of services to the child or the child's parent, guardian,
5 or custodian.

6 SECTION 8. IC 31-34-21-4, AS ADDED BY P.L.1-1997,
7 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
8 JULY 1, 1998]: Sec. 4. (a) At least five (5) days before the **periodic**
9 case review, **including a case review that is a permanency hearing**
10 **under section 7 of this chapter**, the county office of family and
11 children shall send notice of the review to ~~the parent, guardian, or~~
12 ~~custodian of the child. The county office of family and children may~~
13 ~~send notice of the review to any foster parent of the child. each of the~~
14 **following:**

15 (1) The child's parent, guardian, or custodian.

16 (2) The child's foster parent.

17 (3) A prospective adoptive parent named in a petition for
18 adoption of the child filed under IC 31-19-2 if:

19 (A) each consent to adoption of the child that is required
20 under IC 31-19-9-1 has been executed in the form and
21 manner required by IC 31-19-9 and filed with the county
22 office of family and children;

23 (B) the court having jurisdiction in the adoption case has
24 determined under any applicable provision of IC 31-19-9
25 that consent to adoption is not required from a parent,
26 guardian, or custodian; or

27 (C) a petition to terminate the parent-child relationship
28 between the child and any parent who has not executed a
29 written consent to adoption under IC 31-19-9-2, has been
30 filed under IC 31-35 and is pending.

31 (4) Any other person who:

32 (A) the county office of family and children has knowledge
33 is currently providing care for the child; and

34 (B) is not required to be licensed under IC 12-17.2 or
35 IC 12-17.4 to provide care for the child.

36 (5) Any other suitable relative or person who the county office
37 knows has had a significant or caretaking relationship to the
38 child.

39 (b) The court shall provide to a person described in subsection
40 (a) an opportunity to be heard and to make any recommendations
41 to the court in a periodic case review, including a permanency
42 hearing under section 7 of this chapter.



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1 **(c) This section does not exempt the county office of family and**
 2 **children from sending a notice of the review to each party to the**
 3 **proceeding in which the original dispositional decree was issued.**

4 SECTION 9. IC 31-34-21-5, AS ADDED BY P.L.1-1997,
 5 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 JULY 1, 1998]: Sec. 5. (a) The ~~panel~~ or court shall determine:

7 (1) whether the child's case plan, services, and placement meet
 8 the special needs and best interests of the child;

9 (2) whether the county office of family and children has made
 10 reasonable efforts to provide family services; and

11 (3) a projected date for the child's return home, the child's
 12 adoption placement, the child's emancipation, or the appointment
 13 of a legal guardian for the child **under section 7.5(1)(E) of this**
 14 **chapter.**

15 (b) The determination of the ~~panel~~ **court** under subsection (a) must
 16 be based on findings written after consideration of the following:

17 (1) Whether the county office of family and children, the child, or
 18 the child's parent, guardian, or custodian has complied with the
 19 child's case plan.

20 (2) ~~What family services have been provided and offered to the~~
 21 ~~child or the child's parent, guardian, or custodian. **Written**~~
 22 ~~**documentation containing descriptions of:**~~

23 **(A) the family services that have been offered or provided**
 24 **to the child or the child's parent, guardian, or custodian;**

25 **(B) the dates during which the family services were offered**
 26 **or provided; and**

27 **(C) the outcome arising from offering or providing the**
 28 **family services.**

29 (3) The extent of the efforts made by the county office of family
 30 and children to offer and provide family services.

31 (4) The extent to which the parent, guardian, or custodian has
 32 enhanced the ability to fulfill parental obligations.

33 (5) The extent to which the parent, guardian, or custodian has
 34 visited the child, including the reasons for infrequent visitation.

35 (6) The extent to which the parent, guardian, or custodian has
 36 cooperated with the county office of family and children or
 37 probation department.

38 (7) The child's recovery from any injuries suffered before
 39 removal.

40 (8) Whether any additional services are required for the child or
 41 the child's parent, guardian, or custodian and, if so, the nature of
 42 those services.



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- 1 (9) The extent to which the child has been rehabilitated.
 2 (10) If the child is placed out-of-home, whether the child is in the
 3 least restrictive, most family-like setting, and whether the child is
 4 placed close to the home of the child's parent, guardian, or
 5 custodian.
 6 (11) The extent to which the causes for the child's out-of-home
 7 placement or supervision have been alleviated.
 8 (12) Whether current placement or supervision by the county
 9 office of family and children should be continued.
 10 (13) The extent to which the child's parent, guardian, or custodian
 11 has participated or has been given the opportunity to participate
 12 in case planning, periodic case reviews, dispositional reviews,
 13 placement of the child, and visitation.
 14 **(14) Whether the county office of family and children has**
 15 **made reasonable efforts to reunify or preserve a child's family**
 16 **unless reasonable efforts are not required under section 5.6 of**
 17 **this chapter.**
 18 **(15) Whether it is an appropriate time to prepare or**
 19 **implement a permanency plan for the child under section 7.5**
 20 **of this chapter.**

21 **At the second periodic case review, if the county office of family**
 22 **and children determines that the child's parent has not**
 23 **significantly improved under subdivision (4), (5), (6), (11), or (13),**
 24 **the county office of family and children shall consider filing a**
 25 **petition to terminate the parent-child relationship. If four (4)**
 26 **periodic case reviews have been conducted and if after the fourth**
 27 **periodic case review the county office of family and children**
 28 **determines that the child's parent has not significantly improved**
 29 **under subdivision (4), (5), (6), (11), or (13), the county office of**
 30 **family and children shall establish a permanency plan for the child**
 31 **regarding adoption, permanent guardianship, or permanent care**
 32 **in the home of a person related to the child, a foster family home,**
 33 **a child caring institution, or a group home. If the county office of**
 34 **family and children selects adoption as the permanency plan for**
 35 **the child, the county office of family and children shall file a**
 36 **petition for termination of the parent-child relationship.**

37 SECTION 10. IC 31-34-21-5.5 IS ADDED TO THE INDIANA
 38 CODE AS A NEW SECTION TO READ AS FOLLOWS
 39 [EFFECTIVE JULY 1, 1998]: **Sec. 5.5. (a) In determining the extent**
 40 **to which reasonable efforts to reunify or preserve a family are**
 41 **appropriate under this chapter, the child's health and safety are of**
 42 **paramount concern.**

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1 (b) Except as provided in section 5.6 of this chapter, a county
 2 office of family and children shall make reasonable efforts to
 3 preserve and reunify families as follows:

4 (1) If a child has not been removed from the child's home, to
 5 prevent or eliminate the need for removing the child from the
 6 child's home.

7 (2) If a child has been removed from the child's home, to make
 8 it possible for the child to return safely to the child's home.

9 SECTION 11. IC 31-34-21-5.6 IS ADDED TO THE INDIANA
 10 CODE AS A NEW SECTION TO READ AS FOLLOWS
 11 [EFFECTIVE JULY 1, 1998]: Sec. 5.6. (a) A court may make a
 12 finding described in this section at any phase of a child in need of
 13 services proceeding.

14 (b) Reasonable efforts to reunify or preserve a child's family as
 15 described in section 5.5 of this chapter are not required if the court
 16 finds any of the following:

17 (1) A parent, guardian, or custodian of a child who is a child
 18 in need of services has been convicted of:

19 (A) an offense described in IC 31-35-3-4(1)(B) or
 20 IC 31-35-3-4(1)(D) through IC 31-35-3-4(J) against a
 21 victim who:

22 (i) is a child described in IC 31-35-3-4(2); or

23 (ii) was the spouse of the parent, guardian, or custodian
 24 at the time of the offense; or

25 (B) a comparable offense as described in clause (A) in any
 26 other state, territory, or country by a court of competent
 27 jurisdiction.

28 (2) A parent, guardian, or custodian of a child who is a child
 29 in need of services:

30 (A) has been convicted of:

31 (i) the murder (IC 35-42-1-1) or voluntary manslaughter
 32 (IC 35-42-1-3) of a victim who:

33 (i) is a child described in IC 31-35-3-4(2)(B); or

34 (ii) was the spouse of the parent, guardian, or custodian
 35 at the time of the offense; or

36 (ii) a comparable offense described in item (i) in any
 37 other state, territory, or country; or

38 (B) has been convicted of:

39 (i) aiding, inducing, or causing another person;

40 (ii) attempting; or

41 (iii) conspiring with another person;

42 to commit an offense described in clause (A).



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- 1 **(3) A parent, guardian, or custodian of a child who is a child**
- 2 **in need of services has been convicted of:**
- 3 **(A) battery (IC 35-42-2-1 (a)(4)) as a Class B felony;**
- 4 **(B) battery (IC 35-42-2-1(a)(3)) as a Class C felony;**
- 5 **(C) aggravated battery (IC 35-42-2-1.5);**
- 6 **(D) criminal recklessness (IC 35-42-2-2(c)) as a Class C**
- 7 **felony; or**
- 8 **(E) a comparable offense described in clauses (A) through**
- 9 **(D) in another state, territory, or country;**
- 10 **against a child described in IC 31-35-3-4(2)(B) or the spouse**
- 11 **of the parent, guardian, or custodian.**
- 12 **(4) The parental rights of a parent with respect to a biological**
- 13 **or adoptive sibling of a child who is a child in need of services**
- 14 **have been involuntarily terminated by a court under:**
- 15 **(A) IC 31-35-2 (involuntary termination involving a**
- 16 **delinquent child or a child in need of services);**
- 17 **(B) IC 31-35-3 (involuntary termination involving an**
- 18 **individual convicted of a criminal offense); or**
- 19 **(C) any comparable law described in clause (A) or (B) in**
- 20 **any other state, territory, or country.**
- 21 **(5) The child is an abandoned infant, provided that the court:**
- 22 **(A) has appointed a guardian ad litem or court appointed**
- 23 **special advocate for the child; and**
- 24 **(B) after receiving a written report and recommendation**
- 25 **from the guardian ad litem or court appointed special**
- 26 **advocate, and after a hearing, finds that reasonable efforts**
- 27 **to locate the child's parents or reunify the child's family**
- 28 **would not be in the best interests of the child.**
- 29 **SECTION 12. IC 31-34-21-5.7 IS ADDED TO THE INDIANA**
- 30 **CODE AS A NEW SECTION TO READ AS FOLLOWS**
- 31 **[EFFECTIVE JULY 1, 1998]: **Sec. 5.7. (a) This section applies at any****
- 32 **phase of a child in need of services proceeding whenever a court**
- 33 **enters a finding that reasonable efforts to reunify or preserve a**
- 34 **child's family are not required under section 5.6 of this chapter.**
- 35 **(b) The county office of family and children shall do the**
- 36 **following:**
- 37 **(1) Complete a permanency plan for the child that complies**
- 38 **with the requirements of section 7.5 of this chapter.**
- 39 **(2) Seek court approval of the permanency plan under section**
- 40 **7 of this chapter.**
- 41 **(c) Notwithstanding any otherwise applicable requirements**
- 42 **under IC 31-34, whenever the county office of family and children**

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1 seeks approval of a permanency plan for the child under subsection
2 (b), the following reports, orders, and hearings are not required:

3 (1) A predispositional report to consider participation of a
4 child's parent, guardian, or custodian in any program of care,
5 treatment, or rehabilitation of the child.

6 (2) A dispositional decree under IC 31-34-19-6 and findings
7 and conclusions under IC 31-34-19-10 that concern:

8 (A) participation of the child's parent, guardian, or
9 custodian in a program for future care or treatment of the
10 child; or

11 (B) reasonable efforts to prevent the child's removal from
12 the child's home or to reunite the child with the child's
13 parent, guardian, or custodian.

14 SECTION 13. IC 31-34-21-5.8 IS ADDED TO THE INDIANA
15 CODE AS A NEW SECTION TO READ AS FOLLOWS
16 [EFFECTIVE JULY 1, 1998]: Sec. 5.8. (a) This section applies only
17 if a court has approved a permanency plan for a child under
18 section 7(b)(3) of this chapter.

19 (b) If the continuation of reasonable efforts to preserve and
20 reunify a child in need of services with the child's family is
21 inconsistent with the child's permanency plan, the county office of
22 family and children shall make reasonable efforts to:

23 (1) place the child in an out-of-home placement in accordance
24 with the permanency plan; and

25 (2) complete whatever steps are necessary to finalize the
26 permanent placement of the child in a timely manner.

27 (c) Unless consistent with or required by the child's permanency
28 plan, periodic progress reports, case reviews, and postdispositional
29 hearings to determine whether or the extent to which the following
30 have occurred are not required:

31 (1) Whether the county office of family and children, or any
32 other agency, has provided or offered to provide family
33 services to the parent, guardian, or custodian.

34 (2) Whether reasonable efforts have been made to eliminate
35 the need for removal of the child from the child's home or to
36 make it possible for the child to safely return to the child's
37 home.

38 (3) Whether the parent, guardian, or custodian from whom
39 the child was removed has enhanced the ability to fulfill
40 parental obligations.

41 (4) Whether the child is placed in close proximity to the home
42 of the child's parent, guardian, or custodian.



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1 (5) Whether the causes of out-of-home placement or
2 supervision have been alleviated.

3 (6) Whether any other action has been or may be taken or any
4 service provided that is incompatible with the permanency
5 plan for the child included in the dispositional decree entered
6 under this chapter.

7 SECTION 14. IC 31-34-21-7, AS ADDED BY P.L.1-1997,
8 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
9 JULY 1, 1998]: Sec. 7. (a) The court shall hold a ~~format~~ permanency
10 hearing:

11 (1) ~~not more than thirty (30) days after a court finds that~~
12 ~~reasonable efforts to reunify or preserve a child's family are~~
13 ~~not required as described in section 5.6 of this chapter;~~

14 ~~(2) every twelve (12) months after:~~

15 (A) the date of the original dispositional decree; or

16 (B) a child in need of services was removed from the child's
17 parent, guardian, or custodian;

18 whichever comes first; or

19 ~~(2) (3) more often if ordered by the juvenile court.~~

20 (b) The court shall:

21 (1) make the determination and findings required by section 5 of
22 this chapter;

23 (2) consider the question of continued jurisdiction and whether
24 the dispositional decree should be modified;

25 (3) ~~consider recommendations of persons listed under section~~
26 ~~4 of this chapter, before approving a permanency plan under~~
27 ~~subdivision (4);~~

28 ~~(3) determine whether the child should:~~ (4) ~~consider and~~
29 ~~approve a permanency plan for the child that complies with~~
30 ~~the requirements set forth in section 7.5 of this chapter;~~

31 (A) ~~return home;~~

32 (B) ~~continue in foster care;~~

33 (C) ~~be placed for adoption; or~~

34 (D) ~~be placed under another permanent plan; and~~

35 (5) ~~determine whether an existing permanency plan must be~~
36 ~~modified; and~~

37 ~~(4) (6) examine procedural safeguards used by the county office~~
38 ~~of family and children to protect parental rights.~~

39 (c) The state must show that jurisdiction should continue by proving
40 that the objectives of the dispositional decree have not been
41 accomplished, ~~and~~ that a continuation of the decree with or without any
42 modifications ~~has a probability of success: is necessary, and that it is~~



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1 **in the child's best interests for the state to maintain its jurisdiction**
 2 **over the child.** If the state does not sustain its burden for continued
 3 jurisdiction, the court ~~may~~ **shall:**

4 (1) authorize **the county office of family and children to file a**
 5 **petition for termination of the parent-child relationship within**
 6 **thirty (30) days; or**

7 (2) discharge the child ~~or~~ **and** the child's parent, guardian, or
 8 custodian.

9 SECTION 15. IC 31-34-21-7.3 IS ADDED TO THE INDIANA
 10 CODE AS A NEW SECTION TO READ AS FOLLOWS
 11 [EFFECTIVE JULY 1, 1998]: **Sec. 7.3. (a) This section applies after:**

12 (1) **a court authorizes the filing of a petition to terminate the**
 13 **parent-child relationship; or**

14 (2) **a petition to terminate the parent-child relationship is**
 15 **filed;**

16 **in relation to a child in need of services.**

17 (b) **The division shall post the following nonidentifying**
 18 **information on the Internet to facilitate a potential adoptive**
 19 **placement of the child:**

20 (1) **The child's age, gender, and summary of the child's**
 21 **educational, social, and medical background, including known**
 22 **disabilities.**

23 (2) **The reason the child was removed from the child's home.**

24 (3) **Whether a person has expressed an interest in adopting**
 25 **the child.**

26 (4) **The name, address, and telephone number of a contact**
 27 **person from the appropriate:**

28 (A) **county office of family and children; or**

29 (B) **licensed child placing agency;**

30 **where a person who may be interested in adopting the child**
 31 **may obtain further information about adopting the child.**

32 (5) **Whether a petition to terminate the rights of the child's**
 33 **parents has been authorized or filed, and whether the rights**
 34 **of the child's parents have been terminated.**

35 (6) **An address and telephone number of the appropriate:**

36 (A) **county office of family and children; or**

37 (B) **licensed child placing agency;**

38 **where a person who may be interested in adopting the child**
 39 **may obtain further information about adopting the child.**

40 (c) **The information posted under subsection (a) may not**
 41 **identify the name of any of the following persons:**

42 (1) **The child.**

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- 1 (2) The child's biological or adoptive parents.
- 2 (3) A sibling of the child.
- 3 (4) A caretaker of the child.
- 4 (d) The division shall update any relevant information under
- 5 this section after either of the following:
- 6 (1) Each of the child's periodic reviews that occur after the
- 7 information under this section is required to be posted.
- 8 (2) The rights of the child's parents have been terminated.
- 9 (e) The division shall remove the information required under
- 10 subsections (b) and (c) from the Internet whenever the child is
- 11 reunited with the child's family or an adoption of the child is filed
- 12 under IC 31-19-2.
- 13 (f) Upon request, a county office of family and children shall
- 14 inform the person making the request of the address of the Internet
- 15 Web site containing the information described in this section.
- 16 SECTION 16. IC 31-34-21-7.4 IS ADDED TO THE INDIANA
- 17 CODE AS A NEW SECTION TO READ AS FOLLOWS
- 18 [EFFECTIVE JULY 1, 1998]: Sec. 7.4. (a) This section applies
- 19 whenever a court retains its jurisdiction over a child in need of
- 20 services for more than twelve (12) months after:
- 21 (1) the child is removed from the child's parent, guardian, or
- 22 custodian; or
- 23 (2) the court enters an original dispositional decree.
- 24 (b) The county office of family and children may contract with
- 25 a licensed child placing agency:
- 26 (1) to assume the county office of family and children's role in
- 27 the child in need of services proceeding; and
- 28 (2) in an effort to facilitate a permanent placement for the
- 29 child.
- 30 SECTION 17. IC 31-34-21-7.5 IS ADDED TO THE INDIANA
- 31 CODE AS A NEW SECTION TO READ AS FOLLOWS
- 32 [EFFECTIVE JULY 1, 1998]: Sec. 7.5. A permanency plan under
- 33 this chapter includes the following:
- 34 (1) The intended permanent or long term arrangements for
- 35 care and custody of the child that may include any of the
- 36 following arrangements that the court considers most
- 37 appropriate and consistent with the best interests of the child:
- 38 (A) Return to or continuation of existing custodial care
- 39 within the home of the child's parent, guardian, or
- 40 custodian.
- 41 (B) Initiation of a proceeding by the agency or appropriate
- 42 person for termination of the parent-child relationship

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under IC 31-35.

(C) Placement of the child for adoption.

(D) Placement of the child with a responsible person, including:

- (i) an adult sibling;**
- (ii) a grandparent;**
- (iii) an aunt;**
- (iv) an uncle; or**
- (v) other relative;**

who is able and willing to act as the child's permanent custodian and carry out the responsibilities required by the permanency plan.

(E) Appointment of a legal guardian. The legal guardian appointed under this section is a caretaker in a judicially created relationship between the child and caretaker that is intended to be permanent and self-sustaining as evidenced by the transfer to the caretaker of the following parental rights with respect to the child:

- (i) Care, custody, and control of the child.**
- (ii) Decision making concerning the child's upbringing.**

(F) Placement of the child in another planned, permanent living arrangement.

(2) A time schedule for implementing the applicable provisions of the permanency plan.

(3) Provisions for temporary or interim arrangements for care and custody of the child, pending completion of implementation of the permanency plan.

(4) Other items required to be included in a case plan under IC 31-34-15 or federal law, consistent with the permanent or long term arrangements described by the permanency plan.

SECTION 18. IC 31-35-2-4, AS ADDED BY P.L.1-1997, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 4. (a) A verified petition to terminate the parent-child relationship involving a delinquent child or a child in need of services may be signed and filed with the juvenile or probate court by any of the following:

- (1) The attorney for the county office of family and children.**
- (2) The prosecuting attorney.**
- (3) The child's court appointed special advocate.**
- (4) The child's guardian ad litem.**

(b) The petition must:

- (1) be entitled "In the Matter of the Termination of the**

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1 Parent-Child Relationship of _____, a child, and
2 _____, the child's parent (or parents)"; and

3 (2) allege **that:**

4 **(A) one (1) of the following exists:**

5 ~~(A)~~ (i) The child has been removed from the parent for at
6 least six (6) months under a dispositional decree;

7 **(ii) a court has entered a finding under IC 31-34-21-5.6**
8 **that reasonable efforts for family preservation or**
9 **reunification are not required, including a description of**
10 **the court's finding, the date of the finding, and the**
11 **manner in which the finding was made; or**

12 **(iii) after July 1, 1999, the child has been removed from**
13 **the parent and has been under the supervision of a**
14 **county office of family and children for at least fifteen**
15 **(15) months of the most recent twenty-two (22) months;**

16 **(B) there is a reasonable probability that:**

17 (i) the conditions that resulted in the child's removal or the
18 reasons for placement outside the home of the parents will
19 not be remedied; or

20 (ii) the continuation of the parent-child relationship poses a
21 threat to the well-being of the child;

22 **(C) termination is in the best interests of the child; and**

23 **(D) there is a satisfactory plan for the care and treatment of the**
24 **child.**

25 SECTION 19. IC 31-35-2-4.5 IS ADDED TO THE INDIANA
26 CODE AS A NEW SECTION TO READ AS FOLLOWS
27 [EFFECTIVE JULY 1, 1999]: **Sec. 4.5. (a) This section applies if:**

28 **(1) a court has made a finding under IC 31-34-21-5.6 that**
29 **reasonable efforts for family preservation or reunification**
30 **with respect to a child in need of services are not required; or**

31 **(2) a child in need of services:**

32 **(A) has been placed in:**

33 (i) a foster family home, child caring institution, or
34 group home licensed under IC 12-17.4; or

35 (ii) the home of a person related to the child (as defined
36 in IC 12-7-2-162.5);

37 as directed by a court in a child in need of services
38 proceeding under IC 31-34; and

39 **(B) has been removed from a parent and has been under**
40 **the supervision of a county office of family and children for**
41 **not less than fifteen (15) months of the most recent**
42 **twenty-two (22) months, excluding any period not**

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- 1 exceeding sixty (60) days before the court has entered a
 2 finding and judgment under IC 31-34 that the child is a
 3 child in need of services.
- 4 (b) A person described in section 4(a) of this chapter shall:
- 5 (1) file a petition to terminate the parent-child relationship
 6 under section 4 of this chapter unless:
- 7 (A) the child is being cared for permanently by a relative
 8 either in permanent foster care or with guardianship as
 9 the goal; or
- 10 (B) the court has reviewed the case and determined that
 11 there is a compelling reason for determining that filing
 12 the petition would not be in the child's best interests; and
- 13 (2) request that the petition be set for hearing.
- 14 (c) If a petition under subsection (b) is filed by the child's court
 15 appointed special advocate or guardian ad litem, the prosecuting
 16 attorney or the county office of family and children are entitled to
 17 be joined as a party to the petition upon application to the court.
- 18 (d) The attorney for the county office of family and children
 19 may file a petition or motion requesting that the court not
 20 terminate the parent-child relationship regardless of whether a
 21 termination petition has already been filed under subsection (b).
 22 Whenever a petition or motion is filed under this subsection the
 23 county office of family and children shall request that the petition
 24 or motion be set for a hearing. A petition or motion filed under this
 25 subsection must allege at least one (1) of the following
 26 circumstances:
- 27 (1) That the child is being cared for by a custodian who is a
 28 parent, stepparent, grandparent, or responsible adult who is
 29 the child's sibling, aunt, or uncle.
- 30 (2) That the current case plan prepared by or under the
 31 supervision of the county office of family and children under
 32 IC 31-34-15 has documented a compelling reason, based on
 33 facts and circumstances stated in the petition or motion, for
 34 concluding that filing, or proceeding to a final determination
 35 of, a petition to terminate the parent-child relationship is not
 36 in the best interests of the child.
- 37 (3) That:
- 38 (A) IC 31-34-21-5.6 is not applicable to the child;
- 39 (B) the county office of family and children has not
 40 provided family services to the child, parent, or family of
 41 the child in accordance with a currently effective case plan
 42 prepared under IC 31-34-15 or a permanency plan or

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- 1 dispositional decree approved under IC 31-34, for the
- 2 purpose of permitting and facilitating safe return of the
- 3 child to the child's home; and
- 4 (C) the period for completion of the program of family
- 5 services, as specified in the current case plan, permanency
- 6 plan, or decree, has not expired.
- 7 (4) That:
- 8 (A) IC 31-34-21-5.6 is not applicable to the child;
- 9 (B) the county office of family and children has not
- 10 provided family services to the child, parent, or family of
- 11 the child, in accordance with applicable provisions of a
- 12 currently effective case plan prepared under IC 31-34-15,
- 13 or a permanency plan or dispositional decree approved
- 14 under IC 31-34; and
- 15 (C) the services that the county office of family and
- 16 children has not provided are substantial and material in
- 17 relation to implementation of a plan to permit safe return
- 18 of the child to the child's home.

19 SECTION 20. IC 31-35-2-4.6 IS ADDED TO THE INDIANA
 20 CODE AS A NEW SECTION TO READ AS FOLLOWS
 21 [EFFECTIVE JULY 1, 1999]: **Sec. 4.6. (a) The following provisions**
 22 **apply whenever a petition or motion requesting that a court not**
 23 **terminate the parent-child relationship is filed under section 4.5(d)**
 24 **of this chapter.**

- 25 (b) The prosecuting attorney and the child's guardian ad litem
- 26 or court appointed special advocate must be:
- 27 (1) served with a copy of a petition or motion filed under
- 28 section 4.5(d) of this chapter; and
- 29 (2) provided an opportunity to be heard and present evidence
- 30 relevant to disposition of the motion or petition.

31 SECTION 21. IC 31-35-2-4.7 IS ADDED TO THE INDIANA
 32 CODE AS A NEW SECTION TO READ AS FOLLOWS
 33 [EFFECTIVE JULY 1, 1999]: **Sec. 4.7. (a) This section applies if a**
 34 **motion requesting that a court not terminate the parent-child**
 35 **relationship is filed under section 4.5(d) of this chapter.**

- 36 (b) After a hearing is conducted on a motion filed under section
- 37 4.5(d) of this chapter, the court may enter an order authorizing or
- 38 directing that:
- 39 (1) a petition to terminate the parent-child relationship not be
- 40 filed under this section;
- 41 (2) a pending petition filed under this section be dismissed; or
- 42 (3) a hearing or further proceedings on a petition filed under

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this section be continued for a period specified in the order, not exceeding one (1) year.

(c) The court may enter an order granting relief under this section, if the court finds that:

(1) the allegations contained in the motion under section 4.5(d) of this chapter are true, as established by a preponderance of the evidence; and

(2) the relief granted is in the best interests of the child, based on specific findings of fact related to the circumstances of the family and the child.

SECTION 22. IC 31-35-2-6, AS ADDED BY P.L.1-1997, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 6. **Except when a hearing is required under section 4.5 of this chapter**, the person filing the petition may request the court to set the petition for a hearing. **Whenever a hearing is requested under this chapter, the court shall conduct a hearing on the petition not more than ninety (90) days after a petition is filed under this chapter unless the court makes specific written findings as to why completing the trial is not reasonably possible.**

SECTION 23. IC 31-35-2-6.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 6.5. (a) **This section applies to hearings under this chapter relating to a child in need of services.**

(b) **At least five (5) days before a hearing on a petition or motion under this chapter:**

(1) the person or entity who filed the petition to terminate the parent-child relationship under section 4 of this chapter; or

(2) the county office of family and children, if a petition requesting that the court not terminate the parent-child relationship is filed under section 4.5(d) of this chapter, and a petition to terminate the parent-child relationship has not been filed;

shall send notice of the review to the persons listed in subsection (c).

(c) **The following persons shall receive notice of a hearing on a petition or motion filed under this chapter:**

(1) **The child's parent, guardian, or custodian.**

(2) **The child's foster parent.**

(3) **A prospective adoptive parent named in a petition for adoption of the child filed under IC 31-19-2 if:**

(A) **each consent to adoption of the child that is required under IC 31-19-9-1 has been executed in the form and**

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- 1 manner required by IC 31-19-9 and filed with the county
 2 office of family and children;
 3 (B) the court having jurisdiction in the adoption case has
 4 determined under an applicable provision of IC 31-19-9
 5 that consent to adoption is not required from a parent,
 6 guardian, or custodian; or
 7 (C) a petition to terminate the parent-child relationship
 8 between the child and any parent who has not executed a
 9 written consent to adoption under IC 31-19-9-2, has been
 10 filed under IC 31-35 and is pending.
- 11 (4) Any other person who:
 12 (A) the county office of family and children has knowledge
 13 is currently providing care for the child; and
 14 (B) is not required to be licensed under IC 12-17.2 or
 15 IC 12-17.4 to provide care for the child.
- 16 (5) Any other suitable relative or person who the county office
 17 of family and children knows has had a significant or
 18 caretaking relationship to the child.
- 19 (d) The court shall provide to a person described in subsection
 20 (c) an opportunity to be heard and make recommendations to the
 21 court at the hearing.
- 22 (e) A person described in subsection (c)(2) through (c)(5) does
 23 not become a party to a proceeding under this chapter as the result
 24 of the person's right to notice and the opportunity to be heard
 25 under this section.
- 26 SECTION 24. IC 31-35-2-8, AS ADDED BY P.L.1-1997,
 27 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 28 JULY 1, 1999]: Sec. 8. (a) **Except as provided in section 4.7 of this**
 29 **chapter**, if the court finds that the allegations in a petition described in
 30 section 4 of this chapter are true, the court shall terminate the
 31 parent-child relationship.
- 32 (b) If the court does not find that the allegations in the petition are
 33 true, the court shall dismiss the petition.
- 34 SECTION 25. IC 31-35-3-7, AS ADDED BY P.L.1-1997,
 35 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 36 JULY 1, 1999]: Sec. 7. (a) The person filing the petition may request
 37 that the court set the petition for a hearing.
- 38 (b) **Whenever a hearing on the petition is requested under this**
 39 **chapter, the court shall conduct the hearing not more than ninety**
 40 **(90) days after a petition is filed under this chapter unless the court**
 41 **makes specific written findings as to why completing the trial is not**
 42 **reasonably possible.**



1 SECTION 26. IC 31-35-6-1, AS ADDED BY P.L.1-1997,
2 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 1998]: Sec. 1. (a) If the juvenile or probate court terminates
4 the parent-child relationship, the court may:

- 5 (1) refer the matter to the court having probate jurisdiction for
6 adoption proceedings; or
- 7 (2) order any dispositional alternative specified by IC 31-34-20-1
8 or IC 31-37-19-1.

9 **(b) If the juvenile court refers the matter to the court having**
10 **probate jurisdiction under subsection (a)(1), the juvenile court**
11 **shall review the child's case once every six (6) months until a**
12 **petition for adoption is filed.**

13 SECTION 27. IC 33-19-5-4, AS AMENDED BY P.L.1-1997,
14 SECTION 134, IS AMENDED TO READ AS FOLLOWS
15 [EFFECTIVE JULY 1, 1998]: Sec. 4. (a) For each civil action except:

- 16 (1) proceedings to enforce a statute defining an infraction under
17 IC 34-4-32-4;
- 18 (2) proceedings to enforce an ordinance under IC 34-4-32-4;
- 19 (3) proceedings in juvenile court under IC 31-34 or IC 31-37;
- 20 (4) proceedings in paternity under IC 31-14;
- 21 (5) proceedings in small claims court under IC 33-11.6; ~~and~~
- 22 (6) proceedings in actions under section 6 of this chapter; **and**
- 23 **(7) proceedings in adoption actions in which the subject of the**
24 **adoption is a child less than eighteen (18) years of age who is:**

- 25 **(A) adjudicated a child in need of services; and**
- 26 **(B) a ward of the county office of family and children;**
- 27 **at the time of the filing of the petition for adoption;**

28 the clerk shall collect from the party filing the action a civil costs fee
29 of one hundred dollars (\$100), except as provided in subsection (b).

30 (b) For each proceeding for the issuance of a protective order under
31 IC 34-4-5.1:

- 32 (1) the clerk shall initially collect thirty-five dollars (\$35) of the
33 civil costs fee from the party that filed the action or the court may
34 waive the initial thirty-five dollars (\$35) of the civil costs fee for
35 the party that filed the action; and
- 36 (2) upon disposition of the protective order petition under
37 IC 34-4-5.1, the court may order that:
 - 38 (A) the remainder of the civil costs fee, in the amount of
39 sixty-five dollars (\$65), be assessed against the respondent in
40 the action as provided in IC 34-4-5.1-2(d) or against the party
41 that filed the action; and
 - 42 (B) the initial thirty-five dollar (\$35) civil costs fee be

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1 reimbursed by the respondent in the action to the party that
 2 filed the action or assessed against the respondent in the action
 3 as provided in IC 34-4-5.1-2(d).

4 (c) In addition to the civil costs fee collected under this section, the
 5 clerk shall collect the following fees if they are required under
 6 IC 33-19-6:

7 (1) A document fee.

8 (2) A support and maintenance fee.

9 SECTION 28. IC 31-40-3-4 IS ADDED TO THE INDIANA CODE
 10 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 11 1, 1998]: **Sec. 4. An adoption incentive payment that is paid to
 12 Indiana under the federal Adoption and Safe Families Act (42
 13 U.S.C. 473A(d)) must be used for services to facilitate the adoption
 14 of children who are in need of services and may be used for
 15 postadoption services.**

16 SECTION 29. IC 31-34-21-6 IS REPEALED [EFFECTIVE JULY
 17 1, 1999].

18 SECTION 30. [EFFECTIVE JULY 1, 1999] (a) **This SECTION
 19 applies to a child in Indiana who:**

20 (1) **is in an out-of-home placement described in
 21 IC 31-35-2-4.5(a)(2)(A), as added by this act, on or before
 22 November 19, 1997; and**

23 (2) **has been removed from a parent and is under the
 24 supervision of a county office of family and children for at
 25 least fifteen (15) months of the most recent twenty-two (22)
 26 months under IC 31-35-2-4.5(a)(2)(B), as added by this act.**

27 (b) **As used in this SECTION, "division" refers to the division
 28 of family and children.**

29 (c) **As used in this SECTION, "county office" refers to a county
 30 office of family and children.**

31 (d) **Except as provided in IC 31-35-2-4.5(d), as added by this act,
 32 a petition to terminate the parent-child relationship must be filed
 33 under IC 31-35-2-4 with respect to all children in Indiana to whom
 34 this section applies as follows:**

35 (1) **Not later than October 29, 1999, for at least one-third (1/3)
 36 of the children described in this SECTION.**

37 (2) **Not later than April 29, 2000, for at least two-thirds (2/3)
 38 of the children described in this SECTION.**

39 (3) **Not later than October 29, 2000, for all children described
 40 in this SECTION.**

41 (e) **The division shall prepare and maintain a record of children
 42 described in subsection (a). Each county office shall transmit to the**



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1 division information, in a form and at the time prescribed by the
 2 division, sufficient to enable the division to prepare and maintain
 3 the record required by this SECTION.

4 (f) The division shall select, from the record described in
 5 subsection (e), the children for whom a petition must be filed not
 6 later than the dates specified in subsection (d). The division shall
 7 notify the following of the name of each child selected and the
 8 deadline for filing each petition:

9 (1) The director of a county office of family and children that
 10 has responsibility for the child.

11 (2) The prosecuting attorney for the county that has
 12 jurisdiction over the placement of the child.

13 (3) The child's guardian ad litem or court appointed special
 14 advocate, if any.

15 (g) In selecting the children from the record maintained under
 16 this SECTION, for the purposes of subsection (d)(1) and (d)(2), the
 17 division shall give priority to children:

18 (1) for whom a permanency plan approved under
 19 IC 31-34-21-7 provides for placement of the child for
 20 adoption; and

21 (2) who have been placed in an out-of-home placement as
 22 described in IC 31-35-2-4.5(a)(2), as added by this act, for the
 23 greatest length of time.

24 (h) This SECTION does not require the filing of a petition to
 25 terminate the parent-child relationship with respect to a child
 26 described in this SECTION if the child is not a child who is in an
 27 out-of-home placement as described in IC 31-35-2-4.5(a)(2), as
 28 added by this act, on the date the petition is or would be ready for
 29 filing.

30 (i) This SECTION expires December 31, 2000.

31 SECTION 31. [EFFECTIVE JULY 1, 1999] (a) This SECTION
 32 applies to a child in Indiana who:

33 (1) is first placed in an out-of-home placement described in
 34 IC 31-35-2-4.5(a)(2), as added by this act, after November 19,
 35 1997 and before July 1, 1999; and

36 (2) on July 1, 1999, has been removed from a parent and has
 37 been under the supervision of a county office of family and
 38 children for at least fifteen (15) months of the most recent
 39 twenty-two (22) months.

40 (b) Except as provided in IC 31-35-2-4.5(d), as added by this act,
 41 a petition to terminate the parent-child relationship must be filed
 42 under IC 31-35-2-4 with respect to all children in Indiana to whom

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1 **this section applies, not later than July 29, 1999.**
2 (c) **This SECTION does not require the filing of a petition to**
3 **terminate the parent-child relationship with respect to a child**
4 **described in this SECTION if the child is not a child who is in an**
5 **out-of-home placement as described in IC 31-35-2-4.5(a)(2), as**
6 **added by this act, on the date the petition is or would be ready for**
7 **filing.**
8 (d) **This SECTION expires December 31, 1999.**
9 SECTION 32. [EFFECTIVE JULY 1, 1998] (a) **Notwithstanding**
10 **IC 31-34-21-5, the panel or court shall determine the matters under**
11 **IC 31-34-21-5(a).**
12 (b) **This SECTION expires July 1, 1999.**

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SENATE MOTION

Mr. President: I move that Senator Miller be added as second author and Senator Rogers be added as coauthors of Senate Bill 425.

CLARK

SENATE MOTION

Mr. President: I move that Senator Lanane be added as coauthor of Senate Bill 425.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Judiciary, to which was referred Senate Bill 425, 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 5, line 19, delete "or is".
- Page 5, line 20, delete "alleged to be".
- Page 5, line 27, delete "or is".
- Page 5, line 28, delete "alleged to be".
- Page 5, line 42, delete "or is".
- Page 6, line 1, delete "alleged to be".

and when so amended that said bill do pass.

(Reference is to Senate Bill 425 as introduced.)

BRAY, Chairperson

Committee Vote: Yeas 10, Nays 0.

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SENATE MOTION

Mr. President: I move that Senator Miller be removed as second author and Senator Rogers be added as second author and Senator Rogers be removed as coauthor and Senator Miller be added as coauthor of Senate Bill 425.

CLARK

SENATE MOTION

Mr. President: I move that Senators Kenley, Merritt, Breaux and Randolph be added as coauthors of Senate Bill 425.

CLARK

SENATE MOTION

Mr. President: I move that Senate Bill 425, which is eligible for second reading, be reassigned to the Committee on Finance.

GARTON

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COMMITTEE REPORT

Mr. President: The Senate Committee on Finance, to which was referred Senate Bill 425, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 425 as printed January 23, 1998.)

BORST, Chairperson

Committee Vote: Yeas 11, Nays 0.

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SENATE MOTION

Mr. President: I move that Senator Alexa be added as coauthor of Senate Bill 425.

CLARK

 SENATE MOTION

Mr. President: I move that Senate Bill 425 be amended to read as follows:

Page 1, delete lines 12 through 15.

Page 2, delete lines 1 through 5.

Page 2, line 8, delete "1998]" and insert "1999]".

Page 3, between lines 29 and 30, begin a new paragraph and insert:

"(d) This section does not exempt the county office of family and children from sending a notice of the review to each party to the proceeding in which the original dispositional decree was issued."

Page 3, line 39, delete "." and insert "**under section 7.5(1)(E) of this chapter.**".

Page 7, line 18, delete "." and insert "**of this chapter.**".

Page 11, line 19, after "." insert "**The legal guardian appointed under this section is a caretaker in a judicially created relationship between the child and caretaker that is intended to be permanent and self-sustaining as evidenced by the transfer to the caretaker of the following parental rights with respect to the child:**

(i) Care, custody, and control of the child.

(ii) Decision making concerning the child's upbringing."

Page 11, line 32, delete "1999]" and insert "1998]".

Page 12, line 6, delete "in which".

Page 12, line 12, after "(iii)" insert "**after July 1, 1999,**".

Page 14, line 21, delete "this".

Page 15, line 13, delete "," and insert "**of this chapter,**".

Page 17, line 39, delete "subsections" and insert "**subsection**".

Page 18, line 15, delete "17," and insert "**19,**".

Renumber all SECTIONS consecutively.

(Reference is to Senate Bill 425 as printed January 30, 1998.)

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SENATE MOTION

Mr. President: I move that Senator Wyss be added as coauthor of Senate Bill 425.

CLARK

SENATE MOTION

Mr. President: I move that Senator Howard be added as coauthor of Senate Bill 425.

CLARK

SENATE MOTION

Mr. President: I move that Senator Gard be added as coauthor of Senate Bill 425.

CLARK

SENATE MOTION

Mr. President: I move that Senators Skillman, Ford, Long, Wolf and Simpson be added as coauthors of Senate Bill 425.

CLARK

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred Senate Bill 425, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 12-13-5-1, AS AMENDED BY P.L.1-1997, SECTION 53, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 1. The division shall administer or supervise the public welfare activities of the state. The division has the following powers and duties:

- (1) The administration of old age assistance, aid to dependent children, and assistance to the needy blind and persons with disabilities, excluding assistance to children with special health care needs.
- (2) The administration of the following:
 - (A) Any public child welfare service.
 - (B) The licensing and inspection under IC 12-17.2 and IC 12-17.4.
 - (C) The care of dependent and neglected children in foster family homes or institutions, especially children placed for adoption or those born out of wedlock.
 - (D) The interstate placement of children.
- (3) The provision of services to county governments, including the following:
 - (A) Organizing and supervising county offices for the effective administration of public welfare functions.
 - (B) Compiling statistics and necessary information concerning public welfare problems throughout Indiana.
 - (C) Researching and encouraging research into crime, delinquency, physical and mental disability, and the cause of dependency.
- (4) Prescribing the form of, printing, and supplying to the county departments blanks for applications, reports, affidavits, and other forms the division considers necessary and advisable.
- (5) Cooperating with the federal Social Security Administration and with any other agency of the federal government in any reasonable manner necessary and in conformity with IC 12-13 through IC 12-19 to qualify for federal aid for assistance to persons who are entitled to assistance under the federal Social Security Act. The responsibilities include the following:

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- (A) Making reports in the form and containing the information that the federal Social Security Administration Board or any other agency of the federal government requires.
- (B) Complying with the requirements that a board or agency finds necessary to assure the correctness and verification of reports.
- (6) Appointing from eligible lists established by the state personnel board employees of the division necessary to effectively carry out IC 12-13 through IC 12-19. The division may not appoint a person who is not a citizen of the United States and who has not been a resident of Indiana for at least one (1) year immediately preceding the person's appointment unless a qualified person cannot be found in Indiana for a position as a result of holding an open competitive examination.
- (7) Assisting the office of Medicaid policy and planning in fixing fees to be paid to ophthalmologists and optometrists for the examination of applicants for and recipients of assistance as needy blind persons.
- (8) When requested, assisting other departments, agencies, divisions, and institutions of the state and federal government in performing services consistent with this article.
- (9) Acting as the agent of the federal government for the following:
- (A) In welfare matters of mutual concern under IC 12-13 through IC 12-19.
- (B) In the administration of federal money granted to Indiana in aiding welfare functions of the state government.
- (10) Administering additional public welfare functions vested in the division by law and providing for the progressive codification of the laws the division is required to administer.
- (11) Transferring to each county that is required to submit a schedule under IC 12-19-1-9(d) an amount equal to the scheduled amount of the county's lease and rental obligations as provided in IC 12-19-1-9.
- (12) Supervising day care centers and child placing agencies.
- (13) Supervising the licensing and inspection of all public child caring agencies.
- (14) Supervising the care of delinquent children and children in need of services.
- (15) Assisting juvenile courts as required by IC 31-30 through IC 31-40.
- (16) Supervising the care of dependent children and children



placed for adoption.

(17) Compiling information and statistics concerning the ethnicity and gender of a program or service recipient.

(18) Providing permanency planning services for children in need of services, including:

(A) making children legally available for adoption; and

(B) placing children in adoptive homes;

in a timely manner."

Page 1, between lines 11 and 12, begin a new paragraph and insert:
"SECTION 3. IC 31-10-2-1, AS ADDED BY P.L.1-1997, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 1. It is the policy of this state and the purpose of this title to:

(1) recognize the importance of family and children in our society;

(2) recognize the responsibility of the state to enhance the viability of children and family in our society;

(3) acknowledge the responsibility each person owes to the other;

(4) strengthen family life by assisting parents to fulfill their parental obligations;

(5) ensure that children within the juvenile justice system are treated as persons in need of care, protection, treatment, and rehabilitation;

(6) remove children from families only when it is in the child's best interest or in the best interest of public safety;

(7) provide for adoption as a viable permanency plan for children who are adjudicated children in need of services;

~~(7)~~ **(8)** provide a juvenile justice system that protects the public by enforcing the legal obligations that children have to society and society has to children;

~~(8)~~ **(9)** use diversionary programs when appropriate;

~~(9)~~ **(10)** provide a judicial procedure that:

(A) ensures fair hearings;

(B) recognizes and enforces the legal rights of children and their parents; and

(C) recognizes and enforces the accountability of children and parents;

~~(10)~~ **(11)** promote public safety and individual accountability by the imposition of appropriate sanctions; and

~~(11)~~ **(12)** provide a continuum of services developed in a cooperative effort by local governments and the state.

SECTION 4. IC 31-19-2-8, AS ADDED BY P.L.1-1997, SECTION

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11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 8. (a) Unless the petitioner for adoption seeks under section 1 of this chapter to adopt a person who is at least eighteen (18) years of age, **and except as provided in subsection (b)**, the petitioner for adoption must attach to the petition for adoption:

- (1) an adoption history fee of twenty dollars (\$20) payable to the state department of health; and
- (2) a putative father registry fee of fifty dollars (\$50) payable to the state department of health for administering the putative father registry established by IC 31-19-5.

(b) The adoption history fee and putative father registry fee under subsection (a) are waived if a petitioner seeks to adopt:

- (1) a person who is at least eighteen (18) years of age under IC 31-19-2-1; or**
 - (2) a child less than eighteen (18) years of age who is:**
 - (A) adjudicated a child in need of services; and**
 - (B) a ward of a county office of family and children;**
- at the time of the filing of the petition for adoption.**

SECTION 5. IC 31-33-8-9, AS ADDED BY P.L.1-1997, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 9. (a) The local child protection service's report under section ~~7~~ **8** of this chapter shall be made available to:

- (1) the appropriate court;
- (2) the prosecuting attorney; or
- (3) the appropriate law enforcement agency;

upon request.

(b) If child abuse or neglect is substantiated after an investigation is conducted under section 7 of this chapter, the local child protection service shall forward its report to the office of the prosecuting attorney having jurisdiction in the county in which the alleged child abuse or neglect occurred.

~~(b)~~ (c) If the investigation substantiates a finding of child abuse or neglect as determined by the local child protection service, a report shall be sent to the coordinator of the community child protection team under IC 31-33-3."

Replace the effective date in SECTION 3 with "[EFFECTIVE JULY 1, 1998]".

Page 2, line 14, strike "A" and insert "**Each periodic**".

Page 3, delete lines 17 through 20.

Page 3, line 21, delete "(d)" and insert "(c)".

Page 3, line 40, strike "What family services have been provided and offered to the".



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Page 3, line 41, strike "child or the child's parent, guardian, or custodian." and insert **"Written documentation containing descriptions of:**

- (A) the family services that have been offered or provided to the child or the child's parent, guardian, or custodian;**
- (B) the dates during which the family services were offered or provided; and**
- (C) the outcome arising from offering or providing the family services."**

Page 4, between lines 33 and 34, begin a new line blocked left and insert:

"At the second periodic case review, if the county office of family and children determines that the child's parent has not significantly improved under subdivision (4), (5), (6), (11), or (13), the county office of family and children shall consider filing a petition to terminate the parent-child relationship. If four (4) periodic case reviews have been conducted and if after the fourth periodic case review the county office of family and children determines that the child's parent has not significantly improved under subdivision (4), (5), (6), (11), or (13), the county office of family and children shall establish a permanency plan for the child regarding adoption, permanent guardianship, or permanent care in the home of a person related to the child, a foster family home, a child caring institution, or a group home. If the county office of family and children selects adoption as the permanency plan for the child, the county office of family and children shall file a petition for termination of the parent-child relationship."

Page 5, line 18, after "who" insert ":".

Page 5, line 18, before "is" begin a new line triple block indented and insert:

"(i)".

Page 5, between lines 18 and 19, begin a new line triple block indented and insert:

"(ii) was the spouse of the parent, guardian, or custodian at the time of the offense; or"

Page 5, line 24, delete "committed" and insert **"been convicted of"**.

Page 5, line 26, after "who" insert ":".

Page 5, line 26, before "is" begin a new line triple block indented and insert:

"(i)".

Page 5, between lines 27 and 28, begin a new line triple block indented and insert:



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"(ii) was the spouse of the parent, guardian, or custodian at the time of the offense; or".

Page 5, line 30, after "has" insert **"been convicted of"**.

Page 5, line 31, delete "aided, induced, or caused" and insert **"aiding, inducing, or causing"**.

Page 5, line 32, delete "attempted" and insert **"attempting"**.

Page 5, line 33, delete "conspired" and insert **"conspiring"**.

Page 5, line 34, delete ";" and insert ".".

Page 5, delete lines 35 through 36.

Page 5, line 38, delete "committed" and insert **"been convicted of"**.

Page 6, line 4, delete ", regardless of" and insert **"or the spouse of the parent, guardian, or custodian."**

Page 6, delete lines 5 through 6.

Page 8, delete lines 15 through 20.

Page 12, line 38, delete "an court of".

Page 13, delete lines 5 through 8, begin a new paragraph and insert:

"(b) A person described in section 4(a) of this chapter shall:

(1) file a petition to terminate the parent-child relationship under section 4 of this chapter unless:

(A) the child is being cared for permanently by a relative either in permanent foster care or with guardianship as the goal; or

(B) the court has reviewed the case and determined that there is a compelling reason for determining that filing the petition would not be in the child's best interests; and

(2) request that the petition be set for hearing."

Page 14, delete lines 26 through 30.

Page 15, line 18, delete "." and insert **"unless the court makes specific written findings as to why completing the trial is not reasonably possible."**

Page 16, line 39, delete "." and insert **"unless the court makes specific written findings as to why completing the trial is not reasonably possible."**

Page 16, between lines 39 and 40, begin a new paragraph and insert:
"SECTION 25. IC 31-35-6-1, AS ADDED BY P.L.1-1997, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 1. (a) If the juvenile or probate court terminates the parent-child relationship, the court may:

(1) refer the matter to the court having probate jurisdiction for adoption proceedings; or

(2) order any dispositional alternative specified by IC 31-34-20-1 or IC 31-37-19-1.



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(b) If the juvenile court refers the matter to the court having probate jurisdiction under subsection (a)(1), the juvenile court shall review the child's case once every six (6) months until a petition for adoption is filed.

SECTION 26. IC 33-19-5-4, AS AMENDED BY P.L.1-1997, SECTION 134, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 4. (a) For each civil action except:

- (1) proceedings to enforce a statute defining an infraction under IC 34-4-32-4;
- (2) proceedings to enforce an ordinance under IC 34-4-32-4;
- (3) proceedings in juvenile court under IC 31-34 or IC 31-37;
- (4) proceedings in paternity under IC 31-14;
- (5) proceedings in small claims court under IC 33-11.6; ~~and~~
- (6) proceedings in actions under section 6 of this chapter; **and**
- (7) proceedings in adoption actions in which the subject of the adoption is a child less than eighteen (18) years of age who is:**
 - (A) adjudicated a child in need of services; and**
 - (B) a ward of the county office of family and children;**

at the time of the filing of the petition for adoption; the clerk shall collect from the party filing the action a civil costs fee of one hundred dollars (\$100), except as provided in subsection (b).

(b) For each proceeding for the issuance of a protective order under IC 34-4-5.1:

- (1) the clerk shall initially collect thirty-five dollars (\$35) of the civil costs fee from the party that filed the action or the court may waive the initial thirty-five dollars (\$35) of the civil costs fee for the party that filed the action; and
- (2) upon disposition of the protective order petition under IC 34-4-5.1, the court may order that:
 - (A) the remainder of the civil costs fee, in the amount of sixty-five dollars (\$65), be assessed against the respondent in the action as provided in IC 34-4-5.1-2(d) or against the party that filed the action; and
 - (B) the initial thirty-five dollar (\$35) civil costs fee be reimbursed by the respondent in the action to the party that filed the action or assessed against the respondent in the action as provided in IC 34-4-5.1-2(d).

(c) In addition to the civil costs fee collected under this section, the clerk shall collect the following fees if they are required under IC 33-19-6:

- (1) A document fee.
- (2) A support and maintenance fee.

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SECTION 27. IC 31-40-3-4 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 1998]: **Sec. 4. An adoption incentive payment that is paid to Indiana under the federal Adoption and Safe Families Act (42 U.S.C. 473A(d)) must be used for services to facilitate the adoption of children who are in need of services and may be used for postadoption services."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to Senate Bill 425 as reprinted February 3, 1998.)

VILLALPANDO, Chair

Committee Vote: yeas 12, nays 0.

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