

# SENATE BILL No. 64

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 31-10-2-1; IC 31-14-12-10; IC 31-16-12-13; IC 31-33-8-9; IC 31-33-18-2; IC 31-34-21; IC 31-35-6-1; IC 31-40-3-1.

**Synopsis:** Child protection system. Requires that every time a local child protection service participates in a child abuse or neglect investigation, the child protection service must forward its investigational report to the office of the prosecuting attorney having jurisdiction in the county where the child protection service is located. Provides that confidential reports and other confidential information concerning child abuse and neglect that are obtained by certain authorized persons from the division of family and children, a county office of family and children, or a local child protection service remain  
(Continued next page)

**Effective:** July 1, 1998.

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January 6, 1998, read first time and referred to Committee on Judiciary.

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confidential. Provides that upon a court determination of a child support arrearage, a custodial parent may report to a consumer reporting agency regarding the amount of overdue support owed by the noncustodial parent. Requires a consumer reporting agency to provide information regarding a child support arrearage in the same manner as information about any other debt. Requires the custodial parent to continue to notify the consumer reporting agency of any payment that reduces the child support arrearage until the arrearage is satisfied. 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. Increases from \$100 to \$200 the probation department user fee to be paid by the parent or guardian of the estate of a child for whom a guardian ad litem or court appointed special advocate is appointed. Requires an additional periodic case review for a child in need of services that must occur at least three months after: (1) the child's removal from the home; or (2) the date of the dispositional decree; whichever occurs first. Requires each periodic case review to be conducted by a court at a formal hearing. Provides that if, at the fourth periodic case review of a child in need of services to evaluate the child's case plan, services, and placement, which occurs approximately 18 months after: (1) the child's removal from the home; or (2) the date of the dispositional decree; the county office of family and children finds that the child's parent has not significantly improved in certain areas, the county office shall establish a permanent plan for the child. Requires the county office of family and children to file a petition to terminate the parent-child relationship if the permanent plan for the child is adoption. 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. Repeals a provision allowing a periodic case review of a child in need of services case conducted by an administrative panel and makes conforming amendments. Makes certain other changes.



Introduced

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.

## SENATE BILL No. 64

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 31-10-2-1, AS ADDED BY P.L.1-1997, SECTION  
2 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,  
3 1998]: Sec. 1. It is the policy of this state and the purpose of this title  
4 to:
- 5 (1) recognize the importance of family and children in our  
6 society;
  - 7 (2) recognize the responsibility of the state to enhance the  
8 viability of children and family in our society;
  - 9 (3) acknowledge the responsibility each person owes to the other;
  - 10 (4) strengthen family life by assisting parents to fulfill their  
11 parental obligations;
  - 12 (5) ensure that children within the juvenile justice system are  
13 treated as persons in need of care, protection, treatment, and  
14 rehabilitation;
  - 15 (6) remove children from families only when it is in the child's  
16 best interest or in the best interest of public safety;
  - 17 **(7) provide for adoption as a viable permanency plan for**



- 1           **children who have been adjudicated children in need of**  
 2           **services;**  
 3           ~~(7)~~ **(8)** provide a juvenile justice system that protects the public  
 4           by enforcing the legal obligations that children have to society  
 5           and society has to children;  
 6           ~~(8)~~ **(9)** use diversionary programs when appropriate;  
 7           ~~(9)~~ **(10)** provide a judicial procedure that:  
 8                (A) ensures fair hearings;  
 9                (B) recognizes and enforces the legal rights of children and  
 10              their parents; and  
 11              (C) recognizes and enforces the accountability of children and  
 12              parents;  
 13           ~~(10)~~ **(11)** promote public safety and individual accountability by  
 14           the imposition of appropriate sanctions; and  
 15           ~~(11)~~ **(12)** provide a continuum of services developed in a  
 16           cooperative effort by local governments and the state.

17           SECTION 2. IC 31-14-12-10 IS ADDED TO THE INDIANA  
 18           CODE AS A NEW SECTION TO READ AS FOLLOWS  
 19           [EFFECTIVE JULY 1, 1998]: **Sec. 10. (a) Upon a court order finding**  
 20           **a child support arrearage, the custodial parent of a child may:**

- 21               **(1) obtain a certified copy of the court's order specifying the**  
 22               **amount of overdue support owed by the noncustodial parent;**  
 23               **and**  
 24               **(2) submit the court's order described in subdivision (1) to a**  
 25               **consumer reporting agency, as defined in the federal Fair**  
 26               **Credit Reporting Act (15 U.S.C. 1681a(f)).**

27           **(b) A consumer reporting agency shall provide information**  
 28           **regarding a child support arrearage reported under this section in**  
 29           **the same manner as the consumer reporting agency provides**  
 30           **information about any other delinquent debt.**

31           **(c) Each time a noncustodial parent makes a child support**  
 32           **payment that reduces the amount of overdue child support**  
 33           **reported to a consumer reporting agency under this section, the**  
 34           **custodial parent shall immediately send to the consumer reporting**  
 35           **agency a certified copy of the clerk of the court's records indicating**  
 36           **the amount of the reduced child support arrearage.**

37           **(d) A custodial parent shall continue to notify a consumer**  
 38           **reporting agency of any payment that reduces a child support**  
 39           **arrears until the arrearage is satisfied. The consumer reporting**  
 40           **agency shall maintain an accurate record of a noncustodial**  
 41           **parent's actual child support arrearage.**

42           SECTION 3. IC 31-16-12-13 IS ADDED TO THE INDIANA



1 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 2 [EFFECTIVE JULY 1, 1998]: **Sec. 13. (a) Upon a court order finding**  
 3 **a child support arrearage, the custodial parent of a child may:**

4 (1) **obtain a certified copy of the court's order specifying the**  
 5 **amount of overdue support owed by the noncustodial parent;**  
 6 **and**

7 (2) **submit the court's order described in subdivision (1) to a**  
 8 **consumer reporting agency, as defined in the federal Fair**  
 9 **Credit Reporting Act (15 U.S.C. 1681a(f)).**

10 (b) **A consumer reporting agency shall provide information**  
 11 **regarding a child support arrearage reported under this section in**  
 12 **the same manner as the consumer reporting agency provides**  
 13 **information about any other delinquent debt.**

14 (c) **Each time a noncustodial parent makes a child support**  
 15 **payment that reduces the amount of overdue child support**  
 16 **reported to a consumer reporting agency under this section, the**  
 17 **custodial parent shall immediately send to a consumer reporting**  
 18 **agency a certified copy of the clerk of the court's records indicating**  
 19 **the amount of the reduced child support arrearage.**

20 (d) **A custodial parent shall continue to notify a consumer**  
 21 **reporting agency of any payment that reduces a child support**  
 22 **arrears until the arrearage is satisfied. The consumer reporting**  
 23 **agency shall maintain an accurate record of a noncustodial**  
 24 **parent's actual child support arrearage.**

25 SECTION 4. IC 31-33-8-9, AS ADDED BY P.L.1-1997, SECTION  
 26 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,  
 27 1998]: Sec. 9. (a) The local child protection service's report under  
 28 section 7 8 of this chapter shall be made available to:

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

32 upon request.

33 (b) **A local child protection service shall forward its report of an**  
 34 **investigation conducted under section 7 of this chapter to the office**  
 35 **of the prosecuting attorney having jurisdiction in the county where**  
 36 **the local child protection service is located.**

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

41 SECTION 5. IC 31-33-18-2, AS ADDED BY P.L.1-1997,  
 42 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



1 JULY 1, 1998]: Sec. 2. (a) The reports and other material described in  
2 section 1 of this chapter shall be made available only to the following:

3 (1) Persons authorized by this article.

4 (2) A legally mandated public or private child protective agency  
5 investigating a report of child abuse or neglect or treating a child  
6 or family that is the subject of a report or record.

7 (3) A police or other law enforcement agency, prosecuting  
8 attorney, or coroner in the case of the death of a child who is  
9 investigating a report of a child who may be a victim of child  
10 abuse or neglect.

11 (4) A physician who has before the physician a child whom the  
12 physician reasonably suspects may be a victim of child abuse or  
13 neglect.

14 (5) An individual legally authorized to place a child in protective  
15 custody if:

16 (A) the individual has before the individual a child whom the  
17 individual reasonably suspects may be a victim of abuse or  
18 neglect; and

19 (B) the individual requires the information in the report or  
20 record to determine whether to place the child in protective  
21 custody.

22 (6) An agency having the legal responsibility or authorization to  
23 care for, treat, or supervise a child who is the subject of a report  
24 or record or a parent, guardian, custodian, or other person who is  
25 responsible for the child's welfare.

26 (7) An individual named in the report or record who is alleged to  
27 be abused or neglected or, if the individual named in the report is  
28 a child or is otherwise incompetent, the individual's guardian ad  
29 litem or the individual's court appointed special advocate, or both.

30 (8) Each parent, guardian, custodian, or other person responsible  
31 for the welfare of a child named in a report or record and an  
32 attorney of the person described under this subdivision, with  
33 protection for the identity of reporters and other appropriate  
34 individuals.

35 (9) A court, upon the court's finding that access to the records  
36 may be necessary for determination of an issue before the court.  
37 However, access is limited to in camera inspection unless the  
38 court determines that public disclosure of the information  
39 contained in the records is necessary for the resolution of an issue  
40 then pending before the court.

41 (10) A grand jury upon the grand jury's determination that access  
42 to the records is necessary in the conduct of the grand jury's



1 official business.

2 (11) An appropriate state or local official responsible for the child  
3 protective service or legislation carrying out the official's official  
4 functions.

5 (12) A foster care review board established by a juvenile court  
6 under IC 31-34-21-9 (or IC 31-6-4-19 before its repeal) upon the  
7 court's determination that access to the records is necessary to  
8 enable the foster care review board to carry out the board's  
9 purpose under IC 31-34-21.

10 (13) The community child protection team appointed under  
11 IC 31-33-3 (or IC 31-6-11-14 before its repeal), upon request, to  
12 enable the team to carry out the team's purpose under IC 31-33-3.

13 (14) A person about whom a report has been made, with  
14 protection for the identity of:

15 (A) any person reporting known or suspected child abuse or  
16 neglect; and

17 (B) any other person if the person or agency making the  
18 information available finds that disclosure of the information  
19 would be likely to endanger the life or safety of the person.

20 **(b) Reports made under this chapter or any other information**  
21 **obtained, reports written, or photographs taken concerning the**  
22 **reports that are made available to persons authorized by this**  
23 **chapter or to persons listed in this section remain confidential.**

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

31 (b) The first ~~of these~~ periodic case ~~reviews~~ **review** must occur:

32 (1) at least ~~six (6)~~ **three (3)** months after the date of the child's  
33 removal from the child's parent, guardian, or custodian; or

34 (2) at least ~~six (6)~~ **three (3)** months after the date of the  
35 dispositional decree;

36 whichever comes first.

37 **(c) The second periodic case review must occur:**

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

40 **(2) at least six (6) months after the date of the dispositional**  
41 **decree;**

42 **whichever occurs first.**



1           **(d) Each subsequent periodic case review must occur at least**  
 2 **once every six (6) months, or more often if ordered by the court.**

3           ~~(c)~~ **(e) Each periodic case review may must** be conducted either  
 4 by

5           (1) an administrative panel appointed by the director of the county  
 6 office of family and children; or

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

8           ~~(d)~~ If a panel is appointed under subsection (c); at least one (1) of  
 9 the members must be free from responsibility for the case management  
 10 or the delivery of services to the child or the child's parent, guardian,  
 11 or custodian.

12           SECTION 7. IC 31-34-21-5, AS ADDED BY P.L.1-1997,  
 13 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 14 JULY 1, 1998]: Sec. 5. (a) The ~~panel~~ or court shall determine:

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

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

19           (3) a projected date for the child's return home, the child's  
 20 adoption placement, the child's emancipation, or the appointment  
 21 of a legal guardian for the child.

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

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

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

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

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

34           **(C) the outcome arising from offering or providing the**  
 35 **family services.**

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

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

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

42           (6) The extent to which the parent, guardian, or custodian has



- 1 cooperated with the county office of family and children or  
 2 probation department.  
 3 (7) The child's recovery from any injuries suffered before  
 4 removal.  
 5 (8) Whether any additional services are required for the child or  
 6 the child's parent, guardian, or custodian and, if so, the nature of  
 7 those services.  
 8 (9) The extent to which the child has been rehabilitated.  
 9 (10) If the child is placed out-of-home, whether the child is in the  
 10 least restrictive, most family-like setting, and whether the child is  
 11 placed close to the home of the child's parent, guardian, or  
 12 custodian.  
 13 (11) The extent to which the causes for the child's out-of-home  
 14 placement or supervision have been alleviated.  
 15 (12) Whether current placement or supervision by the county  
 16 office of family and children should be continued.  
 17 (13) The extent to which the child's parent, guardian, or custodian  
 18 has participated or has been given the opportunity to participate  
 19 in case planning, periodic case reviews, dispositional reviews,  
 20 placement of the child, and visitation.

21 **(c) At the second periodic case review described in section 2(c)**  
 22 **of this chapter, if the county office of family and children finds that**  
 23 **the child's parent has not significantly improved under subsection**  
 24 **(b) (4), (b)(5), (b)(6), (b)(11), or (b)(13), the county office of family**  
 25 **and children shall consider the filing of a petition to terminate the**  
 26 **parent-child relationship.**

27 **(d) If four (4) periodic case reviews have been conducted under**  
 28 **section 2 of this chapter, and at the fourth periodic case review the**  
 29 **county office of family and children finds that the child's parent**  
 30 **has not significantly improved under subsection (b)(4), (b)(5),**  
 31 **(b)(6), (b)(11), or (b)(13), the county office of family and children**  
 32 **shall establish a permanent plan for the child including adoption,**  
 33 **guardianship, or permanent foster care.**

34 **(e) If the county office of family and children selects adoption as**  
 35 **the child's permanent plan under subsection (d), the county office**  
 36 **of family and children shall file a petition for termination of the**  
 37 **parent-child relationship.**

38 SECTION 8. IC 31-34-21-7, AS ADDED BY P.L.1-1997,  
 39 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 40 JULY 1, 1998]: Sec. 7. (a) The court shall hold a formal hearing **with**  
 41 **respect to the child's periodic case review to consider the issues**  
 42 **described in section 5 of this chapter:**



- 1 (1) every twelve (12) months after:  
 2 (A) the date of the original dispositional decree; or  
 3 (B) a child in need of services was removed from the child's  
 4 parent, guardian, or custodian;  
 5 whichever comes first; or  
 6 (2) more often if ordered by the juvenile court.
- 7 (b) The court shall:  
 8 (1) make the determination and findings required by section 5 of  
 9 this chapter;  
 10 (2) consider the question of continued jurisdiction and whether  
 11 the dispositional decree should be modified;  
 12 (3) determine whether the child should:  
 13 (A) return home;  
 14 (B) continue in foster care;  
 15 (C) be placed for adoption; or  
 16 (D) be placed under another permanent plan; and  
 17 (4) examine procedural safeguards used by the county office of  
 18 family and children to protect parental rights.
- 19 (c) The state must show that jurisdiction should continue by proving  
 20 that the objectives of the dispositional decree have not been  
 21 accomplished, **that the parent has not significantly improved under**  
 22 **section 5(b)(4), 5(b)(5), 5(b)(6), 5(b)(11), or 5(b)(13) of this chapter,**  
 23 and that a continuation of the decree with or without any modifications  
 24 has a probability of success. If the state does not sustain its burden for  
 25 continued jurisdiction, the court may:  
 26 (1) authorize a petition for termination of the parent-child  
 27 relationship; or  
 28 (2) discharge the child or the child's parent, guardian, or  
 29 custodian.
- 30 SECTION 9. IC 31-35-6-1, AS ADDED BY P.L.1-1997, SECTION  
 31 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,  
 32 1998]: Sec. 1. (a) If the juvenile or probate court terminates the  
 33 parent-child relationship, the court may:  
 34 (1) refer the matter to the court having probate jurisdiction for  
 35 adoption proceedings; or  
 36 (2) order any dispositional alternative specified by IC 31-34-20-1  
 37 or IC 31-37-19-1.
- 38 (b) **If the juvenile court refers the matter to the court having**  
 39 **probate jurisdiction under subsection (a)(1), the juvenile court**  
 40 **shall review the child's case once every six (6) months until a**  
 41 **petition for adoption is filed.**
- 42 SECTION 10. IC 31-40-3-1, AS ADDED BY P.L.1-1997,



1 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
2 JULY 1, 1998]: Sec. 1. Subject to IC 31-40-1-3, juvenile court may  
3 order the parent or guardian of the estate of any child for whom a  
4 guardian ad litem or court appointed special advocate is appointed to  
5 pay to the probation department a user fee of not more than ~~one~~ **two**  
6 hundred dollars (~~\$100~~) (**\$200**) for deposit by the probation department  
7 in:  
8 (1) the guardian ad litem fund if a guardian ad litem has been  
9 appointed; or  
10 (2) the court appointed special advocate fund if a court appointed  
11 special advocate has been appointed.  
12 SECTION 11. IC 31-34-21-6 IS REPEALED [EFFECTIVE JULY  
13 1, 1998].

