
SENATE BILL No. 361

DIGEST OF INTRODUCED BILL

Citations Affected: IC 31-14-21; IC 31-19; IC 31-35-1-11.

Synopsis: Paternity and adoption. Provides for the following requirements in paternity actions in which an adoption is pending: (1) Requires the court to conduct an initial hearing not more than 30 days after the filing of the paternity petition or the birth of the child, whichever occurs later. (2) Requires the court to order blood or genetic testing at the initial hearing and requires the court to order the state department of health to pay for the testing under certain circumstances. (3) Requires the court to conduct a final hearing to determine paternity not later than 90 days after the initial hearing. (4) Requires the court to issue its ruling in the paternity action not more than 14 days after the final hearing. Provides that a licensed child placing agency or an
(Continued next page)

Effective: July 1, 1998.

Clark

January 8, 1998, read first time and referred to Committee on Judiciary.

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Digest Continued

attorney in an adoption shall submit to the court an affidavit setting forth the circumstances surrounding service of prebirth actual notice to a putative father, regardless of who served the notice. Requires a court to enter a default judgment against and terminate the parental rights of a parent who fails to appear at the termination hearing after being located and served with notice of the hearing. Repeals statutes requiring a court to preside over a paternity action in which an adoption is pending in a manner that does not cause unreasonable delay. Makes conforming amendments.

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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.

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SENATE BILL No. 361



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 31-14-21-9, AS ADDED BY P.L.1-1997,
2 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 1998]: Sec. 9. (a) If a court presiding over a paternity action
4 under this article knows of:
5 (1) a pending adoption of a child who is the subject of the
6 paternity action; and
7 (2) the court in which the adoption is pending;
8 the court having jurisdiction over the paternity action shall establish a
9 child's paternity within a ~~reasonable~~ **the period described by this**
10 **chapter.**
11 (b) **The court shall conduct an initial hearing not more than**
12 **thirty (30) days after:**
13 (1) **the filing of the paternity petition; or**
14 (2) **the birth of the child;**
15 **whichever occurs later.**



1 SECTION 2. IC 31-14-21-9.1 IS ADDED TO THE INDIANA
 2 CODE AS A NEW SECTION TO READ AS FOLLOWS
 3 [EFFECTIVE JULY 1, 1998]: **Sec. 9.1. At the initial hearing held**
 4 **under section 9 of this chapter, the court shall order all of the**
 5 **parties to the paternity action to undergo blood or genetic testing.**
 6 **If the alleged father is unable to pay for the initial costs of the**
 7 **testing, the court shall order that the tests be paid for by the state**
 8 **department of health from putative father registry fees collected**
 9 **under IC 31-19-2-8(2). The state department of health may recover**
 10 **costs from an individual found to be the biological father of the**
 11 **child in the action.**

12 SECTION 3. IC 31-14-21-9.2 IS ADDED TO THE INDIANA
 13 CODE TO AS A NEW SECTION TO READ AS FOLLOWS
 14 [EFFECTIVE JULY 1, 1998]: **Sec. 9.2. Not later than ninety (90)**
 15 **days after the initial hearing held under section 9 of this chapter**
 16 **the court shall conduct a final hearing to determine paternity. Not**
 17 **more than fourteen (14) days after the final hearing, the court shall**
 18 **issue its ruling in the paternity action.**

19 SECTION 4. IC 31-19-2-8, AS ADDED BY P.L.1-1997, SECTION
 20 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
 21 1998]: Sec. 8. Unless the petitioner for adoption seeks under section 1
 22 of this chapter to adopt a person who is at least eighteen (18) years of
 23 age, the petitioner for adoption must attach to the petition for adoption:

24 (1) an adoption history fee of twenty dollars (\$20) payable to the
 25 state department of health; and

26 (2) a putative father registry fee of fifty dollars (\$50) payable to
 27 the state department of health for:

28 (A) administering the putative father registry established by
 29 IC 31-19-5; and

30 (B) **paying for blood or genetic testing in a paternity action**
 31 **in which an adoption is pending in accordance with**
 32 **IC 31-14-21-9.1.**

33 SECTION 5. IC 31-19-3-3, AS ADDED BY P.L.197-1997,
 34 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 35 JULY 1, 1998]: Sec. 3. Upon the filing of a petition for adoption:

36 (1) the licensed child placing agency sponsoring the adoption; or

37 (2) the attorney representing the prospective adoptive parents;

38 **who gave actual notice or caused actual notice to be given to the**
 39 **putative father of the child shall submit to the court an affidavit setting**
 40 **forth the circumstances surrounding the service of actual notice,**
 41 **including the time if known, date, and manner in which the actual**
 42 **notice was provided.**



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1 SECTION 6. IC 31-19-3-4, AS ADDED BY P.L.1-1997, SECTION
 2 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
 3 1998]: Sec. 4. Notice of the potential adoption under this chapter must
 4 be provided to the putative father of the child in substantially the
 5 following form:

6 " _____ (putative father's name), who has been named as the
 7 father of the unborn child of _____ (birth mother's name), or who
 8 claims to be the father of the unborn child, is notified that _____
 9 (birth mother's name) has expressed an intention to secure an adoptive
 10 placement for the child.

11 If _____ (putative father's name) seeks to contest the
 12 adoption of the unborn child, the putative father must file a paternity
 13 action to establish his paternity in relation to the unborn child not later
 14 than thirty (30) days after the receipt of this notice.

15 If _____ (putative father's name) does not file a paternity
 16 action not more than thirty (30) days after receiving this notice, or
 17 having filed a paternity action, is unable to establish paternity in
 18 relation to the child ~~within a reasonable period determined under~~
 19 ~~IC 31-14-21-9 through IC 31-14-21-11~~ **under IC 31-14** or the laws
 20 applicable to a court of another state when the court obtains jurisdiction
 21 over the paternity action, the putative father's consent to the adoption
 22 shall be irrevocably implied and the putative father loses the right to
 23 contest both the adoption and the validity of his implied consent to the
 24 adoption. In addition, the putative father loses the right to establish
 25 paternity of the child under IC 31-14 or in a court of another state when
 26 the court would otherwise be competent to obtain jurisdiction over the
 27 paternity action.

28 Nothing _____ (mother's name) or anyone else says to _____
 29 (putative father's name) relieves _____ (putative father's name) of
 30 his obligations under this notice.

31 Under Indiana law, a putative father is a person who is named as or
 32 claims that he may be the father of a child born out of wedlock but who
 33 has not yet been legally proven to be the child's father.

34 For purposes of this notice, _____ (putative father's name) is
 35 a putative father under the laws in Indiana regarding adoption."

36 SECTION 7. IC 31-19-4-4, AS ADDED BY P.L.1-1997, SECTION
 37 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
 38 1998]: Sec. 4. Notice of the adoption proceeding required under section
 39 3 of this chapter shall be given to an unnamed putative father in
 40 substantially the following form:

41 "NOTICE TO UNNAMED FATHER

42 The unnamed putative father of the child born to _____ (mother's

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1 name) on _____ (date), or the person who claims to be the father of the
 2 child born to _____ (mother's name) on _____ (date), is notified that
 3 a petition for adoption of the child was filed in the office of the clerk
 4 of _____ court, _____ (address of court).

5 If the unnamed putative father seeks to contest the adoption of the
 6 child, the unnamed putative father must file a motion to contest the
 7 adoption in accordance with IC 31-19-10-1 in the above named court
 8 or a paternity action under IC 31-14 within thirty (30) days after the
 9 date of service of this notice. This notice may be served by publication.

10 If the unnamed putative father

11 (1) does not file:

12 (A) a motion to contest the adoption; or

13 (B) a paternity action under IC 31-14;

14 within thirty (30) days after service of this notice; or

15 (2) after filing a paternity action under IC 31-14 fails to establish
 16 paternity; ~~within a reasonable period as determined by the~~
 17 ~~paternity court under IC 31-14-21-9 through IC 31-14-21-11;~~

18 the above named court shall hear and determine the petition for
 19 adoption. The unnamed putative father's consent is irrevocably implied
 20 and the unnamed putative father loses the right to contest the adoption
 21 or the validity of the unnamed putative father's implied consent to the
 22 adoption. The unnamed putative father loses the right to establish
 23 paternity of the child under IC 31-14.

24 Nothing _____ (mother's name) or any one else says to the
 25 unnamed putative father of the child relieves the unnamed putative
 26 father of his obligations under this notice.

27 Under Indiana law, a putative father is a person who is named as or
 28 claims that he may be the father of a child born out of wedlock but who
 29 has not yet been legally proven to be the child's father."

30 SECTION 8. IC 31-19-4-5, AS ADDED BY P.L.1-1997, SECTION
 31 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
 32 1998]: Sec. 5. Notice of the adoption proceeding shall be given to:

33 (1) the putative father who is entitled to notice under section 1 or
 34 2 of this chapter; or

35 (2) a named putative father under section 3 of this chapter;

36 in substantially the following form:

37 "NOTICE TO NAMED FATHER

38 _____ (putative father's name), who has been named the
 39 father of the child born to _____ (mother's name) on _____
 40 (date), or who claims to be the father of the child born to _____
 41 (mother's name) on _____ (date), is notified that a petition for
 42 adoption of the child was filed in the office of the clerk of _____

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1 court, _____ (address of the court).

2 If _____ (putative father's name) seeks to contest the adoption
3 of the child, he must file a motion to contest the adoption in accordance
4 with IC 31-19-10-1 in the above named court, or a paternity action
5 under IC 31-14 not later than thirty (30) days after the date of service
6 of this notice.

7 If _____ (putative father's name)

8 (1) does not file:

9 (A) a motion to contest the adoption; or

10 (B) a paternity action under IC 31-14;

11 within thirty (30) days after service of this notice; or

12 (2) after filing a paternity action under IC 31-14 fails to establish
13 paternity; ~~within a reasonable period as determined by the~~
14 ~~paternity court under IC 31-14-21-9 through IC 31-14-21-11;~~

15 the above named court will hear and determine the petition for
16 adoption. His consent will be irrevocably implied and he will lose his
17 right to contest either the adoption or the validity of his implied consent
18 to the adoption. He will lose his right to establish his paternity of the
19 child under IC 31-14.

20 Nothing _____ (mother's name) or anyone else says to
21 _____ (putative father's name) relieves _____ (putative
22 father's name) of his obligations under this notice.

23 Under Indiana law, a putative father is a person who is named as or
24 claims that he may be the father of a child born out of wedlock but who
25 has not yet been legally proven to be the child's father. For purposes of
26 this notice, _____ (putative father's name) is a putative father
27 under the laws in Indiana regarding adoption."

28 SECTION 9. IC 31-19-9-12, AS ADDED BY P.L.197-1997,
29 SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
30 JULY 1, 1998]: Sec. 12. A putative father's consent to adoption is
31 irrevocably implied without further court action if the putative father:

32 (1) fails to file:

33 (A) a motion to contest the adoption in accordance with
34 IC 31-19-10; and

35 (B) a paternity action under IC 31-14:

36 within thirty (30) days after service of notice under IC 31-19-4;

37 (2) having filed a motion to contest the adoption in accordance
38 with IC 31-19-10 fails to appear at the hearing set to contest the
39 adoption;

40 (3) having filed a paternity action under IC 31-14, fails to
41 establish paternity in the action; ~~within a reasonable period~~
42 ~~determined under IC 31-14-21-9 through IC 31-14-21-11;~~ or

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1 (4) is required to but fails to register with the putative father
 2 registry established by IC 31-19-5 within the period under
 3 IC 31-19-5-12.

4 SECTION 10. IC 31-19-9-15, AS ADDED BY P.L.1-1997,
 5 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 JULY 1, 1998]: Sec. 15. The putative father's consent to adoption of
 7 the child is irrevocably implied without further court action if the
 8 father:

9 (1) fails to file a paternity action:

10 (A) under IC 31-14; or

11 (B) in a court located in another state that is competent to
 12 obtain jurisdiction over the paternity action;

13 not more than thirty (30) days after receiving actual notice under
 14 IC 31-19-3 of the mother's intent to proceed with an adoptive
 15 placement of the child, regardless of whether the child is born
 16 before or after the expiration of the thirty (30) day period; or

17 (2) files a paternity action:

18 (A) under IC 31-14; or

19 (B) in a court located in another state that is competent to
 20 obtain jurisdiction over the paternity action;

21 during the thirty (30) day period prescribed by subdivision (1) and
 22 fails to establish paternity in the paternity proceeding ~~within a~~
 23 ~~reasonable period determined under IC 31-14-21-9 through~~
 24 ~~IC 31-14-21-11~~ **under IC 31-14** or the laws applicable to a court
 25 of another state when the court obtains jurisdiction over the
 26 paternity action.

27 SECTION 11. IC 31-35-1-11, AS ADDED BY P.L.1-1997,
 28 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 29 JULY 1, 1998]: Sec. 11. If the court makes findings of fact upon the
 30 record that:

31 (1) one (1) parent has made a valid consent to the termination of
 32 the parent-child relationship;

33 (2) the other parent:

34 (A) cannot be located, after a good faith effort has been made
 35 to do so; **or**

36 **(B) has been located but fails to appear at the termination**
 37 **hearing;**

38 (3) the other parent has been served with notice of the
 39 ~~proceedings~~ **hearing** in the most effective means under the
 40 circumstances; and

41 (4) the investigation that may be required by section 7 of this
 42 chapter has been completed and entered on the record;



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1 the court may enter a default judgment against the unavailable parent
2 and terminate as to both parents.

3 SECTION 12. THE FOLLOWING ARE REPEALED [EFFECTIVE
4 JULY 1, 1998]: IC 31-14-21-10; IC 31-14-21-11; IC 31-14-21-12.

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