

SENATE BILL No. 397

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-2-5.1-5; IC 31-9-2-123; IC 31-32; IC 31-33; IC 31-34; IC 31-37; IC 31-40-1-2.

Synopsis: Changes in juvenile law. Makes several changes to the child protection system, including the following: (1) Provides that a child alleged to be a child in need of services may not be removed from the child's family home unless: (A) the child's physical health is endangered due to injury as a result of the act or omission of the child's parent, guardian, or custodian; (B) the child has been or is in danger of being a victim of certain sex-related or obscenity-related offenses; or (C) the child is in danger of serious bodily harm as the result of a failure to provide the child with necessary food, shelter, or medical care
(Continued next page)

Effective: July 1, 1998.

Clark

January 9, 1998, read first time and referred to Committee on Judiciary.

C
O
P
Y



and a court order has been obtained. (2) Provides that other family members must first be considered for placement if the child is removed from the child's home. Requires a court to consider the request of a child's parent, guardian, or custodian to use a particular provider of family services if the parent, guardian, or custodian is required to participate in family services. (3) Creates a rebuttable presumption that a court retains jurisdiction over a child in need of services for not longer than 12 months. (4) Provides that a child may not be removed from the child's family home in cases where the child is alleged to be a child in need of services or a delinquent child if the only evidence in the case is an anonymous report. (5) Requires the division of family and children to destroy within six months all photographs and records of an unsubstantiated child abuse or neglect report. (6) Provides that a proceeding to terminate a parent-child relationship must be open to the public upon the request of the child's parent, guardian, or custodian. Allows the court to protect the child's identity in these cases. (7) Provides that the rules of evidence apply to detention, dispositional, and placement review hearings. (8) Requires the court to advise a child's parent, guardian, or custodian that alternative reports may be prepared by the parent, guardian, or custodian for consideration by the court in making recommendations for the care, treatment, or rehabilitation of a child determined to be a child in need of services or a delinquent child. (9) Provides that a child's parent or other family member is not required to reimburse the state or a provider of family services for expenses relating to supervised visitation. (10) Requires certain juvenile court determinations to be made by a preponderance of the evidence. (11) Repeals rebuttable presumption, created upon the introduction of certain evidence, that a child is a child in need of services because of an act or omission of the child's parent, guardian, or custodian.

C
O
P
Y



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.

C
O
P
Y

SENATE BILL No. 397



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

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

1 SECTION 1. IC 5-2-5.1-5, AS AMENDED BY P.L.1-1997,
 2 SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 1998]: Sec. 5. As used in this chapter, "juvenile history data"
 4 means information collected by criminal or juvenile justice agencies or
 5 individuals about a child who is alleged to have committed a reportable
 6 act and consists of the following:
 7 (1) Descriptions and notations of events leading to the taking of
 8 the child into custody by a juvenile justice agency for a reportable
 9 act allegedly committed by the child.
 10 (2) A petition alleging that the child is a delinquent child.
 11 (3) Dispositional decrees concerning the child that are entered
 12 under **IC 31-37-19** (or IC 31-6-4-15.9 **before its repeal**).
 13 (4) The findings of a court determined after a hearing is held
 14 under ~~IC 31-37-20-2~~ or ~~IC 31-37-20-3~~ **IC 31-34-21-7** (or
 15 ~~IC 31-6-4-19(h)~~ or ~~IC 31-6-4-19(i)~~ **IC 31-6-4-19(c)** before their



1 **its** repeal) concerning the child.

2 (5) Information:

3 (A) regarding a child who has been adjudicated a delinquent
4 child for committing an act that would be an offense described
5 in IC 5-2-12-4(1) if committed by an adult; and

6 (B) that is obtained through sex offender registration under
7 IC 5-2-12.

8 SECTION 2. IC 31-9-2-123, AS ADDED BY P.L.1-1997,
9 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
10 JULY 1, 1998]: Sec. 123. "Substantiated", for purposes of IC 31-33
11 **and IC 31-34-8-4, and ~~IC 31-37-9-5~~**; means a determination regarding
12 the status of a report made under IC 31-33 whenever facts obtained
13 during an investigation of the report provide credible evidence that
14 child abuse or neglect has occurred. **To substantiate a report of child**
15 **abuse or neglect, the allegations must be proven by a**
16 **preponderance of the evidence.**

17 SECTION 3. IC 31-32-2-3, AS ADDED BY P.L.1-1997, SECTION
18 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
19 1998]: Sec. 3. (a) This section applies to the following proceedings:

20 (1) Proceedings to determine whether a child is a child in need of
21 services.

22 (2) Proceedings to determine whether the parent, guardian, or
23 custodian of a child should participate in a program of care,
24 treatment, or rehabilitation for the child.

25 (3) Proceedings to determine whether the parent or guardian of
26 the estate of a child should be held financially responsible for any
27 services provided to the parent or guardian or the child of the
28 parent or guardian.

29 (4) Proceedings to terminate the parent-child relationship.

30 (b) A parent, guardian, or custodian is entitled:

31 (1) to cross-examine witnesses;

32 (2) to obtain witnesses or tangible evidence by compulsory
33 process; and

34 (3) to introduce evidence on behalf of the parent, guardian, or
35 custodian.

36 (c) **The rules of evidence apply to:**

37 (1) **a fact-finding hearing held under IC 31-34-11 and**
38 **IC 31-37-13; and**

39 (2) **a hearing regarding a petition to terminate the**
40 **parent-child relationship under IC 31-35-3.**

41 SECTION 4. IC 31-32-2-3.5 IS ADDED TO THE INDIANA CODE
42 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY



C
O
P
Y

1 1, 1998]: **Sec. 3.5. At the request of a parent, guardian, or**
 2 **custodian, a proceeding to terminate the parent-child relationship**
 3 **must be open to the public. However, the court may, in any**
 4 **individual case, take any constitutionally protected steps the court**
 5 **considers appropriate to protect the child's identity.**

6 SECTION 5. IC 31-32-6-2, AS ADDED BY P.L.1-1997, SECTION
 7 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
 8 1998]: Sec. 2. The juvenile court shall determine whether the public
 9 should be excluded from a proceeding other than a juvenile proceeding
 10 described in section 3 or 3.1 of this chapter.

11 SECTION 6. IC 31-32-6-3.1 IS ADDED TO THE INDIANA CODE
 12 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 13 1, 1998]: **Sec. 3.1. At the request of a parent, guardian, or**
 14 **custodian, a proceeding to terminate the parent-child relationship**
 15 **must be open to the public. However, the court may, in any**
 16 **individual case, take any constitutionally protected steps the court**
 17 **considers appropriate to protect the child's identity.**

18 SECTION 7. IC 31-33-7.5 IS ADDED TO THE INDIANA CODE
 19 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 20 JULY 1, 1998]:

21 **Chapter 7.5. Removal of a Child from the Home**

22 **Sec. 1. A child may not be removed from the child's family home**
 23 **when the child is alleged to be:**

- 24 (1) a child in need of services; or
 25 (2) a delinquent child;

26 **if the only evidence that exists to support the allegation after an**
 27 **initial investigation is a report that is made anonymously.**

28 SECTION 8. IC 31-33-8-3, AS ADDED BY P.L.1-1997, SECTION
 29 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
 30 1998]: Sec. 3. (a) Except as provided in subsection ~~(b)~~; (c), the local
 31 child protection service shall:

- 32 (1) cause color photographs to be taken of the areas of trauma
 33 visible on a child who is subject to a report; and
 34 (2) if medically indicated, cause a radiological examination of the
 35 child to be performed.

36 **(b) A photograph made to record the condition of a child under**
 37 **this section must be signed, dated, and numbered by the person**
 38 **who photographed the child. Each photograph must be stored with**
 39 **the child's file that is created and maintained by the county office.**

40 ~~(b)~~ (c) If the law enforcement agency participates in the
 41 investigation, the law enforcement agency shall cause the color
 42 photographs to be taken as provided by this section.



C
O
P
Y

1 (↻) (d) The division of family and children shall reimburse the
2 expenses of the photographs and x-rays.

3 (e) **A photograph made as a result of an unsubstantiated report**
4 **must be destroyed immediately after the report is determined by**
5 **the county office to be unsubstantiated.**

6 SECTION 9. IC 31-33-8-7, AS ADDED BY P.L.1-1997, SECTION
7 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
8 1998]: Sec. 7. (a) The local child protection service's investigation, to
9 the extent that is reasonably possible, must include the following:

10 (1) The nature, extent, and cause of the known or suspected child
11 abuse or neglect.

12 (2) The identity of the person allegedly responsible for the child
13 abuse or neglect.

14 (3) The names and conditions of other children in the home.

15 **However, where the only evidence supporting a claim of child**
16 **abuse or neglect is a report made anonymously, the**
17 **investigation is limited to the facts involving only the child or**
18 **children alleged to be the subject of the child abuse or neglect.**

19 (4) An evaluation of the parent, guardian, custodian, or person
20 responsible for the care of the child.

21 (5) The home environment and the relationship of the child to the
22 parent, guardian, or custodian or other persons responsible for the
23 child's care.

24 (6) All other data considered pertinent.

25 (b) The investigation may include the following:

26 (1) A visit to the child's home.

27 (2) An interview with the subject child.

28 (3) A physical, psychological, or psychiatric examination of any
29 child in the home.

30 (c) If:

31 (1) admission to the home, the school, or any other place that the
32 child may be; or

33 (2) permission of the parent, guardian, custodian, or other persons
34 responsible for the child for the physical, psychological, or
35 psychiatric examination;

36 under subsection (b) cannot be obtained, the juvenile court, upon good
37 cause shown, shall follow the procedures under IC 31-32-12.

38 SECTION 10. IC 31-33-8-14, AS ADDED BY P.L.1-1997,
39 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
40 JULY 1, 1998]: Sec. 14. Whenever:

41 (1) a court with criminal jurisdiction dismisses a case or enters a
42 not guilty verdict in a case arising out of child abuse or neglect;

C
O
P
Y



1 or

2 (2) a court with jurisdiction over a child in need of services
3 proceeding determines that child abuse or neglect has not
4 occurred;

5 the court shall forward information regarding the disposition of the
6 case under this chapter to the registry not more than five (5) working
7 days after the court acts as described by subdivisions (1) through (2):
8 **dismissal or determination is entered into the record. All**
9 **information concerning the child abuse or neglect report must be**
10 **immediately removed from the registry.**

11 SECTION 11. IC 31-33-10-2.2 IS ADDED TO THE INDIANA
12 CODE AS A NEW SECTION TO READ AS FOLLOWS
13 [EFFECTIVE JULY 1, 1998]: **Sec. 2.2. A photograph made to record**
14 **the condition of a child under this chapter must be signed, dated,**
15 **and numbered by the person who photographed the child.**

16 SECTION 12. IC 31-33-10-2.3 IS ADDED TO THE INDIANA
17 CODE AS A NEW SECTION TO READ AS FOLLOWS
18 [EFFECTIVE JULY 1, 1998]: **Sec. 2.3. Each photograph made**
19 **under this chapter must be stored with the child's file that is**
20 **created and maintained by the county office.**

21 SECTION 13. IC 31-33-10-4 IS ADDED TO THE INDIANA
22 CODE AS A NEW SECTION TO READ AS FOLLOWS
23 [EFFECTIVE JULY 1, 1998]: **Sec. 4. A photograph made as a result**
24 **of an unsubstantiated report must be destroyed immediately after**
25 **the report is determined by the county office to be unsubstantiated.**

26 SECTION 14. IC 31-33-17-7, AS ADDED BY P.L.1-1997,
27 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
28 JULY 1, 1998]: Sec. 7. The division of family and children shall
29 administer the registry and each local child protection service shall
30 administer the automated child protection system under IC 31-33-20 in
31 a manner that enables the division of family and children or each local
32 child protection service to do the following:

33 (1) Immediately identify and locate prior **substantiated** reports of
34 child abuse or neglect through the use of the division of family
35 and children's computerized tracking system and the local child
36 protection service's automated risk assessment system.

37 (2) Track steps in the investigative process to ensure compliance
38 with all requirements for a report of child abuse and neglect.

39 (3) Maintain and produce aggregate statistical reports monitoring
40 patterns of child abuse and neglect that the division of family and
41 children shall make available to the public upon request.

42 (4) Serve as a resource for the evaluation, management, and

C
O
P
Y



1 planning of preventative and remedial services to children who
2 have been subject to child abuse or neglect.

3 SECTION 15. IC 31-33-18-4, AS ADDED BY P.L.1-1997,
4 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 JULY 1, 1998]: Sec. 4. (a) Whenever a child abuse or neglect
6 investigation is conducted under this article, the local child protection
7 service shall give verbal and written notice to each parent, guardian, or
8 custodian of the child that:

9 (1) the reports and information described under section 1 of this
10 chapter relating to the child abuse or neglect investigation; and

11 (2) if the child abuse or neglect allegations are pursued in juvenile
12 court, the juvenile court's records described under IC 31-39;
13 are available upon the request of the parent, guardian, or custodian
14 except as prohibited by federal law.

15 (b) A parent, guardian, or custodian requesting information under
16 this section may be required to sign a written release form that
17 delineates the information that is requested before the information is
18 made available. However, no other prerequisites for obtaining the
19 information may be placed on the parent, guardian, or custodian except
20 for reasonable copying costs.

21 **(c) A person about whom a report has been made has the right**
22 **to provide written evidence and documentation to be kept in the**
23 **child's file that is maintained by the county office for as long as the**
24 **file remains in existence.**

25 SECTION 16. IC 31-33-19-1, AS ADDED BY P.L.1-1997,
26 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
27 JULY 1, 1998]: Sec. 1. Except as provided in sections 6 and 7 of this
28 chapter, ~~the division of family and children~~ **a hearing officer** shall
29 conduct an administrative hearing under IC 4-21.5-3 upon a request
30 made under IC 31-33-17-8.

31 SECTION 17. IC 31-33-19-2, AS ADDED BY P.L.1-1997,
32 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
33 JULY 1, 1998]: Sec. 2. At the administrative hearing, the classifying
34 agency must prove by ~~some credible~~ **a preponderance of the** evidence
35 that the alleged perpetrator is responsible for the child's abuse or
36 neglect.

37 SECTION 18. IC 31-33-20-6 IS ADDED TO THE INDIANA
38 CODE AS A **NEW SECTION TO READ AS FOLLOWS**
39 **[EFFECTIVE JULY 1, 1998]: Sec. 6. (a) The division shall destroy**
40 **all records of an unsubstantiated child abuse or neglect report**
41 **within six (6) months after the division or a county office**
42 **determines that the report is unsubstantiated, unless the person**

C
O
P
Y



1 who is the subject of a report requests in writing to the
2 investigating caseworker that the records not be destroyed.

3 (b) If a request is made under subsection (a), the records shall
4 be retained in the division's files. However, the division is not
5 required to maintain unsubstantiated child abuse or neglect
6 reports for more than five (5) years after the date that the report
7 is determined to be unsubstantiated.

8 SECTION 19. IC 31-34-4-2, AS ADDED BY P.L.1-1997,
9 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
10 JULY 1, 1998]: Sec. 2. (a) If a child alleged to be a child in need of
11 services is taken into custody under an order of the court under this
12 chapter, the court shall **first** consider placing the child with a suitable
13 and willing blood or adoptive relative caretaker, including a
14 grandparent, an aunt, an uncle, or an adult sibling, before considering
15 any other out-of-home placement.

16 (b) Before placing a child in need of services with a blood relative
17 or an adoptive relative caretaker, the court may order the division of
18 family and children to:

- 19 (1) complete a home study of the relative's home; and
- 20 (2) provide the court with a placement recommendation.

21 SECTION 20. IC 31-34-5-2, AS ADDED BY P.L.1-1997,
22 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
23 JULY 1, 1998]: Sec. 2. (a) If a child has been removed from the child's
24 parent, guardian, or custodian under IC 31-34-2-3 or IC 31-34-2-4,
25 then, in accordance with federal law, at the detention hearing the court
26 shall make written findings and conclusions that state the following:

- 27 (1) Whether removal of the child authorized by IC 31-34-2-3 or
28 IC 31-34-2-4 was necessary to protect the child.
- 29 (2) A description of the family services available before removal
30 of the child.
- 31 (3) Efforts made to provide family services before removal of the
32 child.
- 33 (4) Why the efforts made to provide family services did not
34 prevent removal of the child.
- 35 (5) Whether the efforts made to prevent removal of the child were
36 reasonable.

37 (b) **The court's findings under this section must be made by a
38 preponderance of the evidence.**

39 SECTION 21. IC 31-34-5-3, AS ADDED BY P.L.1-1997,
40 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
41 JULY 1, 1998]: Sec. 3. The juvenile court shall release the child to the
42 child's parent, guardian, or custodian. However, the court may order the



C
O
P
Y

1 child detained if the court makes written findings of fact upon the
 2 record of **probable cause to believe and finds by a preponderance of**
 3 **the evidence** that the child is a child in need of services and that:

- 4 (1) detention is necessary to protect the child;
 5 (2) the child is unlikely to appear before the juvenile court for
 6 subsequent proceedings;
 7 (3) the child has a reasonable basis for requesting that the child
 8 not be released;
 9 (4) the parent, guardian, or custodian:
 10 (A) cannot be located; or
 11 (B) is unable or unwilling to take custody of the child; or
 12 (5) consideration for the safety of the child precludes the use of
 13 family services to prevent removal of the child.

14 SECTION 22. IC 31-34-5-5, AS ADDED BY P.L.1-1997,
 15 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 16 JULY 1, 1998]: Sec. 5. (a) A child detained under section 3 or 4 of this
 17 chapter or the child's parent, guardian, or custodian may petition the
 18 juvenile court for additional detention hearings.

19 **(b) At the request of a child's parent, guardian, or custodian, an**
 20 **additional detention hearing, subject to the rules of evidence, shall**
 21 **be held within thirty (30) days of the request or the child shall be**
 22 **released.**

23 **(c) When a judge releases a child under this section, the judge**
 24 **shall make written findings that explain the reasons for the release.**

25 SECTION 23. IC 31-34-10-5, AS ADDED BY P.L.1-1997,
 26 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 27 JULY 1, 1998]: Sec. 5. (a) The juvenile court shall inform the parent
 28 or guardian of the estate that if the child is adjudicated a child in need
 29 of services:

- 30 (1) the parent, guardian, or custodian of the child may be required
 31 to participate in a program of care, treatment, or rehabilitation for
 32 the child;
 33 (2) the parent or guardian may be held financially responsible for
 34 services provided for the parent, guardian, or child; and
 35 (3) the parent, guardian, or custodian of the child may controvert
 36 the following:
 37 (A) Allegations made at the child's dispositional or other
 38 hearing concerning the parent's, guardian's, or custodian's
 39 participation.
 40 (B) Allegations concerning the parent's or guardian's financial
 41 responsibility for services that would be provided.

42 **(b) The juvenile court shall consider a request to use a**

C
O
P
Y



1 **particular service provider that is made by a child's parent,**
 2 **guardian, or custodian who is required to participate in family**
 3 **services under subsection (a)(1).**

4 SECTION 24. IC 31-34-12-2, AS ADDED BY P.L.1-1997,
 5 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 JULY 1, 1998]: Sec. 2. A finding **by a juvenile court** in a proceeding
 7 to terminate parental rights must be based upon clear and convincing
 8 evidence.

9 SECTION 25. IC 31-34-12-3, AS ADDED BY P.L.1-1997,
 10 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 11 JULY 1, 1998]: Sec. 3. A finding **by a juvenile court in a proceeding**
 12 **that is not covered by described in** section 1 or 2 of this chapter must
 13 be based upon a preponderance of the evidence.

14 SECTION 26. IC 31-34-15-4, AS ADDED BY P.L.1-1997,
 15 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 16 JULY 1, 1998]: Sec. 4. A child's case plan must be set out in a form
 17 prescribed by the division of family and children that meets the
 18 specifications set by 45 CFR 1356.21. The case plan must include a
 19 description and discussion of the following:

- 20 (1) A permanent plan for the child and an estimated date for
 21 achieving the goal of the plan.
 22 (2) The appropriate placement for the child based on the child's
 23 special needs and best interests.
 24 (3) The least restrictive family-like setting that is close to the
 25 home of the child's parent, custodian, or guardian if out-of-home
 26 placement is recommended. If an out-of-home placement is
 27 appropriate, the county department shall **first** consider whether a
 28 child in need of services should be placed with the child's suitable
 29 and willing blood or adoptive relative caretaker, including a
 30 grandparent, an aunt, an uncle, or an adult sibling, before
 31 considering other out-of-home placements for the child.
 32 (4) Family services recommended for the child, parent, guardian,
 33 or custodian.
 34 (5) Efforts already made to provide family services to the child,
 35 parent, guardian, or custodian.
 36 (6) Efforts that will be made to provide family services that are
 37 ordered by the court.

38 SECTION 27. IC 31-34-18-1, AS AMENDED BY P.L.55-1997,
 39 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 40 JULY 1, 1998]: Sec. 1. (a) Upon finding that a child is a child in need
 41 of services, the juvenile court shall order a probation officer or a
 42 caseworker to prepare a predispositional report that contains a:



C
O
P
Y

- 1 (1) statement of the needs of the child for care, treatment,
- 2 rehabilitation, or placement; and
- 3 (2) recommendation for the care, treatment, rehabilitation, or
- 4 placement of the child.
- 5 (b) Any of the following may prepare an alternative report for
- 6 consideration by the court:
- 7 (1) The child.
- 8 (2) The child's:
- 9 (A) parent;
- 10 (B) guardian;
- 11 (C) guardian ad litem;
- 12 (D) court appointed special advocate; or
- 13 (E) custodian.

14 **(c) The court shall advise the child's parent, guardian, or**
 15 **custodian:**
 16 **(1) that alternative reports may be prepared; and**
 17 **(2) of the right to controvert a predispositional report as set**
 18 **forth in IC 31-34-19-2.**

19 SECTION 28. IC 31-34-18.6 IS ADDED TO THE INDIANA
 20 CODE AS A NEW CHAPTER TO READ AS FOLLOWS
 21 [EFFECTIVE JULY 1, 1998]:

22 **Chapter 18.6. Additional Provisions Governing Out-of-Home**
 23 **Placements**

24 **Sec. 1. A child alleged to be a child in need of services may not**
 25 **be removed from the child's family home under this article unless:**

- 26 (1) the child's physical health is endangered due to injury as
- 27 a result of the act or omission of the child's parent, guardian,
- 28 or custodian;
- 29 (2) the child has been or is in danger of being a victim of an
- 30 offense under IC 35-42-4, IC 35-45-4-1, IC 35-45-4-2,
- 31 IC 35-46-1-3, IC 35-49-2-2, or IC 35-49-3-2; or
- 32 (3) the child is in danger of serious bodily harm as a result of
- 33 the inability, refusal, or neglect of the child's parent,
- 34 guardian, or custodian to supply the child with necessary
- 35 food, shelter, or medical care, and a court order has first been
- 36 obtained.

37 **Sec. 2. A parent or other family member is not required to**
 38 **reimburse the state or a provider of family services for costs**
 39 **related to supervised visitation.**

40 **Sec. 3. The child's caseworker or probation officer shall**
 41 **maintain a written record of a child's removal from a juvenile**
 42 **facility or other out-of-home placement by a person who is not**

C
O
P
Y



1 related to the child and shall:

2 (1) file a copy of the report with the court maintaining
3 jurisdiction over the child on a monthly basis; and

4 (2) make a copy of the record available, upon request, to the
5 child's:

6 (A) parent, guardian, or custodian; and

7 (B) court appointed special advocate or guardian ad litem.

8 **Sec. 4. A child may not be removed from the child's family home**
9 **when the child is alleged to be a child in need of services if the only**
10 **evidence that exists to support the allegation after an initial**
11 **investigation is a report that is made anonymously.**

12 SECTION 29. IC 31-34-19-2, AS ADDED BY P.L.1-1997,
13 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
14 JULY 1, 1998]: Sec. 2. (a) ~~Any~~ A predispositional report may be
15 admitted into evidence to the extent that the report contains evidence
16 of probative value even if the report would otherwise be excluded.
17 **However, if a child's parent, guardian, or custodian wishes to**
18 **controvert any evidence in a predispositional report, the parent,**
19 **guardian, or custodian may request a continuance of the**
20 **dispositional hearing, and the court shall schedule, within thirty**
21 **(30) days after the request, a new dispositional hearing that is**
22 **subject to the rules of evidence, including admission of the**
23 **predispositional report.**

24 (b) If a report contains information that should not be released to the
25 child or the child's parent, guardian, or custodian, a factual summary of
26 the report may be admitted.

27 (c) The:

28 (1) child;

29 (2) child's parent, guardian, or custodian; and

30 (3) person representing the interests of the state;

31 shall be given a fair opportunity to controvert any part of the report
32 admitted into evidence.

33 SECTION 30. IC 31-34-20-3, AS ADDED BY P.L.1-1997,
34 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
35 JULY 1, 1998]: Sec. 3. (a) If the juvenile court determines that a
36 parent, guardian, or custodian should participate in a program of care,
37 treatment, or rehabilitation for the child, the court may order the parent,
38 guardian, or custodian to do the following:

39 (1) Obtain assistance in fulfilling the obligations as a parent,
40 guardian, or custodian.

41 (2) Provide specified care, treatment, or supervision for the child.

42 (3) Work with a person providing care, treatment, or rehabilitation

C
O
P
Y



1 for the child.

2 (4) Participate in a program operated by or through the
3 department of correction.

4 **(b) The juvenile court shall consider a request to use a**
5 **particular service provider that is made by a child's parent,**
6 **guardian, or custodian who is required to participate in family**
7 **services under subsection (a)(1).**

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

11 (1) **every within** twelve (12) months after:

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

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

15 whichever comes first; or

16 (2) more often if ordered by the juvenile court.

17 **There is a rebuttable presumption that the jurisdiction of the court**
18 **over a child in need of services shall not last longer than twelve (12)**
19 **months after the date of the dispositional decree or twelve (12)**
20 **months after the child in need of services was removed from the**
21 **child's parent, guardian, or custodian, whichever occurs first.**

22 (b) The court shall:

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

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

27 (3) determine whether the child should:

28 (A) return home;

29 (B) continue in foster care;

30 (C) be placed for adoption; or

31 (D) be placed under another permanent plan; and

32 (4) examine procedural safeguards used by the county office of
33 family and children to protect parental rights.

34 **(c) To rebut the presumption under subsection (a), the state must**
35 **show that jurisdiction should continue by proving that the objectives of**
36 **the dispositional decree have not been accomplished, ~~and~~ that a**
37 **continuation of the decree with or without any modifications ~~has a~~**
38 **probability of success: is necessary, and that it is in the best interests**
39 **of the child to continue the court's jurisdiction.** If the state does not
40 sustain its burden for continued jurisdiction, the court ~~may:~~ **shall:**

41 (1) authorize **the filing of** a petition for ~~termination of~~
42 **terminating** the parent-child relationship; or



C
O
P
Y

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

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

(d) An order of the court contained in the original disposition decree may be modified by the court during the pendency of a proceeding to terminate the parent-child relationship initiated under this section.

SECTION 32. IC 31-34-22-2, AS ADDED BY P.L.1-1997, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 2. (a) Except as provided in subsection (b), a report prepared by the state:

(1) for the juvenile court's review of the court's dispositional decree; or

(2) prepared for use at a periodic case review under IC 31-34-21-2 or hearing under IC 31-34-21-7;

shall be made available to the child and the child's parent, guardian, guardian ad litem, or custodian within a reasonable time after the report's presentation to the court or before the hearing.

(b) If the court determines on the record that the report contains information that should not be released to the child or the child's parent, guardian, or custodian, the court shall provide a copy of the report to the following:

- (1) Each attorney or guardian ad litem representing the child.
- (2) Each attorney representing the child's parent, guardian, or custodian.
- (3) Each court appointed special advocate.

(c) The court ~~may~~ **shall** also provide a factual summary of the report to the child or the child's parent, guardian, or custodian. **Alternative reports may be prepared by the child or the child's parent, guardian, guardian ad litem, court appointed special advocate, or custodian for consideration by the court. The court shall advise the child's parent, guardian, or custodian:**

- (1) that alternative reports may be prepared; and**
- (2) of the right to controvert a report as established in section 3 of this chapter.**

(d) In addition to the requirements of subsection (a), ~~any~~ **a** report prepared by the state for the juvenile court's review shall also be made available to any court appointed special advocate within the same time period and in the same manner as required in the case of a parent under subsection (a). However, if under subsection (a) the court determines on the record that the report contains information that should not be released to the parent, the court shall still provide a copy of the report to any court appointed special advocate.

C
O
P
Y



1 SECTION 33. IC 31-34-22-3, AS ADDED BY P.L.1-1997,
 2 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 1998]: Sec. 3. (a) ~~Any~~ **A** report may be admitted into evidence
 4 to the extent that the report contains evidence of probative value even
 5 if the evidence would otherwise be excluded.

6 (b) If a report contains information that should not be released to the
 7 child or the child's parent, guardian, or custodian, a factual summary of
 8 the report may be admitted.

9 (c) The:

10 (1) child;

11 (2) child's parent, guardian, or custodian; and

12 (3) person representing the interests of the state;

13 shall be given a fair opportunity to controvert any part of the report
 14 admitted into evidence. **However, if the child's parent, guardian, or**
 15 **custodian wishes to controvert any evidence in a progress report**
 16 **for placement review, the child's parent, guardian, or custodian**
 17 **may request a continuance of the placement review hearing, and**
 18 **the court shall schedule, within thirty (30) days after the request,**
 19 **a new placement review hearing that is subject to the rules of**
 20 **evidence, including admission of any report.**

21 SECTION 34. IC 31-37-6-6, AS ADDED BY P.L.1-1997,
 22 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 23 JULY 1, 1998]: Sec. 6. (a) The juvenile court shall release the child on
 24 the child's own recognizance or to the child's parent, guardian, or
 25 custodian upon the person's written promise to bring the child before
 26 the court at a time specified. However, the court may order the child
 27 detained if the court finds ~~probable cause to believe by a~~
 28 **preponderance of the evidence that** the child is a delinquent child
 29 and that:

30 (1) the child is unlikely to appear for subsequent proceedings;

31 (2) detention is essential to protect the child or the community;

32 (3) the parent, guardian, or custodian:

33 (A) cannot be located; or

34 (B) is unable or unwilling to take custody of the child; or

35 (4) the child has a reasonable basis for requesting that the child
 36 not be released.

37 (b) If a child is detained for a reason specified in subsection (a)(3)
 38 or (a)(4), the child shall be detained under IC 31-37-7-1.

39 SECTION 35. IC 31-37-6-7, AS ADDED BY P.L.1-1997,
 40 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 41 JULY 1, 1998]: Sec. 7. (a) Upon the juvenile court's own motion or
 42 upon the motion of the person representing the interests of the state, a

C
O
P
Y



1 child who has been released may be ordered to appear for an additional
2 detention hearing.

3 **(b) At the request of a child's parent, guardian, or custodian, an**
4 **additional detention hearing, subject to the rules of evidence, shall**
5 **be held within thirty (30) days after the request or the child shall**
6 **be released.**

7 **(c) When a judge releases a child under this section, the judge**
8 **shall make written findings that explain the reasons for the release.**

9 SECTION 36. IC 31-37-12-6, AS ADDED BY P.L.1-1997,
10 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
11 JULY 1, 1998]: Sec. 6. **(a)** The juvenile court shall inform the parent
12 or guardian of the estate of the following if a child is adjudicated a
13 delinquent child:

14 (1) The parent, guardian, or custodian of the child may be
15 required to participate in a program of care, treatment, or
16 rehabilitation for the child.

17 (2) The parent or guardian may be held financially responsible for
18 services provided for the child or the parent or guardian.

19 (3) The parent, guardian, or custodian of the child may controvert:
20 (A) an allegation made at the dispositional or other hearing
21 concerning the participation of the parent, guardian, or
22 custodian; or
23 (B) an allegation concerning the financial responsibility of the
24 parent, guardian, or custodian for services that would be
25 provided.

26 **(b) The juvenile court shall consider a request to use a**
27 **particular service provider that is made by a child's parent,**
28 **guardian, or custodian who is required to participate in family**
29 **services under subsection (a)(1).**

30 SECTION 37. IC 31-37-14-2, AS ADDED BY P.L.1-1997,
31 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
32 JULY 1, 1998]: Sec. 2. A finding **by a juvenile court** in a proceeding
33 to terminate parental rights must be based upon clear and convincing
34 evidence.

35 SECTION 38. IC 31-37-14-3, AS ADDED BY P.L.1-1997,
36 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
37 JULY 1, 1998]: Sec. 3. A finding **by a juvenile court in a proceeding**
38 **that is not covered by described in** section 1 or 2 of this chapter must
39 be based upon a preponderance of the evidence.

40 SECTION 39. IC 31-37-17-1, AS ADDED BY P.L.55-1997,
41 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
42 JULY 1, 1998]: Sec. 1. (a) Upon finding that a child is a delinquent



C
O
P
Y

1 child, the juvenile court shall order a probation officer or a caseworker
2 to prepare a predispositional report that contains a:

- 3 (1) statement of the needs of the child for care, treatment,
4 rehabilitation, or placement; and
5 (2) recommendation for the care, treatment, rehabilitation, or
6 placement of the child.

7 (b) Any of the following may prepare an alternative report for
8 consideration by the court:

- 9 (1) The child.
10 (2) The child's:
11 (A) parent;
12 (B) guardian;
13 (C) guardian ad litem;
14 (D) court appointed special advocate; or
15 (E) custodian.

16 (c) **The court shall advise the child's parent, guardian, or**
17 **custodian:**

- 18 (1) **that an alternative report may be prepared; and**
19 (2) **of the right to controvert a predispositional report as set**
20 **forth in IC 31-37-18-2.**

21 SECTION 40. IC 31-37-18-2, AS ADDED BY P.L.1-1997,
22 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
23 JULY 1, 1998]: Sec. 2. (a) ~~Any~~ A predispositional report may be
24 admitted into evidence to the extent that the report contains evidence
25 of probative value even if the report would otherwise be excluded.
26 **However, if a child's parent, guardian, or custodian wishes to**
27 **controvert any evidence in a predispositional report, the child's**
28 **parent, guardian, or custodian may request a continuance of the**
29 **dispositional hearing, and the court shall schedule, within thirty**
30 **(30) days after the request, a new dispositional hearing that is**
31 **subject to the rules of evidence, including admission of the**
32 **predispositional report.**

33 (b) If a report contains information that should not be released to the
34 child or the child's parent, guardian, or custodian, a factual summary of
35 the report may be admitted.

36 (c) The:

- 37 (1) child;
38 (2) child's parent, guardian, or custodian; and
39 (3) person representing the interests of the state;

40 shall be given a fair opportunity to controvert any part of the report
41 admitted into evidence.

42 SECTION 41. IC 31-37-18.6 IS ADDED TO THE INDIANA



C
O
P
Y

1 CODE AS A NEW CHAPTER TO READ AS FOLLOWS
 2 [EFFECTIVE JULY 1, 1998]:

3 **Chapter 18.6. Additional Provisions Governing Out-of-Home**
 4 **Placements**

5 **Sec. 1. A child may not be removed from the child's family home**
 6 **when the child is alleged to be a delinquent child if, after an initial**
 7 **investigation, the only evidence supporting the allegation is a**
 8 **report that is made anonymously.**

9 SECTION 42. IC 31-37-19-24, AS ADDED BY P.L.1-1997,
 10 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 11 JULY 1, 1998]: Sec. 24. (a) If the juvenile court determines that a
 12 parent, guardian, or custodian should participate in a program of care,
 13 treatment, or rehabilitation for the child, the court may order the parent,
 14 guardian, or custodian to:

- 15 (1) obtain assistance in fulfilling the obligations as a parent,
 16 guardian, or custodian;
- 17 (2) provide specified care, treatment, or supervision for the child;
- 18 (3) work with a person providing care, treatment, or rehabilitation
 19 for the child; and
- 20 (4) participate in a program operated by or through the
 21 department of correction.

22 **(b) The juvenile court shall consider a request to use a**
 23 **particular service provider that is made by a child's parent,**
 24 **guardian, or custodian who is required to participate in family**
 25 **services under subsection (a)(1).**

26 SECTION 43. IC 31-37-21-2, AS ADDED BY P.L.1-1997,
 27 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 28 JULY 1, 1998]: Sec. 2. (a) Except as provided by subsection (b), a
 29 report prepared by the state:

- 30 (1) for the juvenile court's review of the court's dispositional
 31 decree; or
- 32 (2) for use at a periodic case review or hearing under
 33 IC 31-37-20-2 or IC 31-37-20-3;

34 shall be made available to the child and the child's parent, guardian,
 35 guardian ad litem, custodian, or court appointed special advocate
 36 within a reasonable time after the report's presentation to the court or
 37 before the hearing.

38 (b) If the court determines on the record that the report contains
 39 information that should not be released to the child or the child's
 40 parent, guardian, or custodian, the court shall provide a copy of the
 41 report to the following:

- 42 (1) Each attorney or a guardian ad litem representing the child.



C
O
P
Y

1 (2) Each attorney representing the child's parent, guardian, or
2 custodian.

3 (3) A court appointed special advocate.

4 (c) The court ~~may~~ **shall** also provide a factual summary of the report
5 to the child or the child's parent, guardian, or custodian. **Alternative**
6 **reports may be prepared by the child or the child's parent,**
7 **guardian, custodian, guardian ad litem, or court appointed special**
8 **advocate for consideration by the court. The court shall advise the**
9 **child's parent, guardian, or custodian:**

10 (1) **that alternative reports may be prepared; and**

11 (2) **of the right to controvert a report as established in section**
12 **3 of this chapter.**

13 (d) In addition to the requirements of subsection (a), ~~any~~ **a** report
14 prepared by the state for the juvenile court's review shall also be made
15 available to any court appointed special advocate within the same time
16 period and in the same manner as required in the case of a parent under
17 subsection (a). However, if under subsection (a) the court determines
18 on the record that the report contains information that should not be
19 released to the parent, the court shall still provide a copy of the report
20 to any court appointed special advocate.

21 SECTION 44. IC 31-37-21-3, AS ADDED BY P.L.1-1997,
22 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
23 JULY 1, 1998]: Sec. 3. (a) ~~Any~~ **A** report may be admitted into evidence
24 to the extent that the report contains evidence of probative value even
25 if the evidence would otherwise be excluded.

26 (b) If a report contains information that should not be released to the
27 child or the child's parent, guardian, or custodian, a factual summary of
28 the report may be admitted.

29 (c) The:

30 (1) child;

31 (2) child's parent, guardian, or custodian; and

32 (3) person representing the interests of the state;

33 shall be given a fair opportunity to controvert any part of the report
34 admitted into evidence. **However, if the child's parent, guardian, or**
35 **custodian wishes to controvert any evidence in a progress report**
36 **for placement review, the child's parent, guardian, or custodian**
37 **may request a continuance of the placement review hearing, and**
38 **the court shall schedule, within thirty (30) days after the request,**
39 **a new placement review hearing that is subject to the rules of**
40 **evidence, including admission of any report.**

41 SECTION 45. IC 31-40-1-2, AS ADDED BY P.L.1-1997,
42 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



C
O
P
Y

1 JULY 1, 1998]: Sec. 2. (a) The county shall pay the cost of:
 2 (1) any services ordered by the juvenile court for any child or the
 3 child's parent, guardian, or custodian; and
 4 (2) returning a child under IC 31-37-23.
 5 **A parent or other family member is not required to reimburse the**
 6 **state or a provider of family services for supervised visitation.**
 7 (b) The county fiscal body shall provide sufficient money to meet
 8 the court's requirements.
 9 (c) The child's parent or the guardian of the estate of a child shall
 10 reimburse the county for the costs paid under subsection (a) (or
 11 IC 31-6-4-18(b) before its repeal) as provided under this article.
 12 (d) After receiving a petition for reimbursement from a county that
 13 has paid for services under subsection (a) (or IC 31-6-4-18(b) before
 14 its repeal), the court shall hold a hearing to determine whether to order
 15 reimbursement by the child's parents or the guardian of the child's
 16 estate to the county as described under this article.
 17 SECTION 46. IC 31-34-12-4 IS REPEALED [EFFECTIVE JULY
 18 1, 1998].

C
O
P
Y

