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## SENATE BILL No. 476

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### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 31-34-21; IC 31-35-2.

**Synopsis:** Various CHINS and adoption issues. Creates a rebuttable presumption that a court retains jurisdiction over a child who is a child in need of services (CHINS) for not longer than 12 months. Provides that if the state does not sustain its burden for continued jurisdiction at the end of the 12 month period, the court is required to: (1) authorize the filing of a petition for termination of the parent-child relationship; or (2) discharge the child and the child's parent, guardian, or custodian. Provides that the court may authorize a licensed child placing agency or an attorney representing prospective adoptive parents to file the  
(Continued next page)

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

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Clark

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January 14, 1998, read first time and referred to Committee on Judiciary.

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termination petition under certain circumstances. Requires each periodic case review of a child who is in need of services to be conducted by a court at a formal hearing. Requires, after July 1, 1999, an additional periodic case review for each child in need of services, which 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. Confers the right to notice and the opportunity to be heard in a child in need of services proceeding or proceeding to terminate the parent-child relationship upon certain statutorily prescribed persons or entities, including a licensed child placing agency or attorney seeking to represent a person who is interested in adopting the child who is the subject of the proceeding. 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 either: (1) the child has been removed from the home; or (2) the court enters its original dispositional decree. Allows the court with jurisdiction over the child in need of services proceeding to order the county office of family and children to enter into the contract with the licensed child placing agency. Makes certain 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.

## SENATE BILL No. 476

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 31-34-21-2, AS ADDED BY P.L.1-1997,  
2 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 1998]: Sec. 2. (a) In accordance with federal law, the case of  
4 each child in need of services under the supervision of the county  
5 office of family and children must be reviewed ~~at least once every six~~  
6 ~~(6) months; or more often, if ordered by the court.~~ **in accordance with**  
7 **the periods described in this subsection.**  
8 (b) The first of these periodic case reviews must occur:  
9 (1) **before July 1, 1999**, at least six (6) months after the date of  
10 the child's removal from the child's parent, guardian, or custodian  
11 **and after June 30, 1999, at least three (3) months after the**  
12 **date of the child's removal from the child's parent, guardian,**  
13 **or custodian; or**  
14 (2) **before July 1, 1999**, at least six (6) months after the date of  
15 the dispositional decree **and after June 30, 1999, at least three**



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1           **(3) months after the date of the dispositional decree;**  
 2           whichever comes first. **After June 30, 1999, a second periodic case**  
 3           **review must occur at least six (6) months after the date of the**  
 4           **child's removal from the child's parent, guardian, or custodian, or**  
 5           **at least six (6) months after the date of the dispositional decree,**  
 6           **whichever occurs first. Each subsequent periodic case review must**  
 7           **occur at least once every six (6) months, or more often if ordered**  
 8           **by the court.**

9           (c) A case review may be conducted either by

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

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

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

17           SECTION 2. IC 31-34-21-3.5 IS ADDED TO THE INDIANA  
 18           CODE AS A NEW SECTION TO READ AS FOLLOWS  
 19           [EFFECTIVE JULY 1, 1998]: **Sec. 3.5. (a) This section applies any**  
 20           **time after:**

21           (1) a court authorizes the filing of a petition to terminate the  
 22           parent-child relationship; or

23           (2) a petition to terminate the parent-child relationship is  
 24           filed;

25           **in relation to a child who is the subject of a child in need of services**  
 26           **proceeding.**

27           (b) The following person or entity may file notice with the court  
 28           that is presiding in a child in need of services proceeding regarding  
 29           a person's interest in adopting the child who is the subject of the  
 30           proceeding:

31           (1) A licensed child placing agency.

32           (2) An attorney representing a prospective adoptive parent  
 33           who has a preplacement home study prepared by a licensed  
 34           child placing agency.

35           (c) Whenever notice is filed with the court under this section, the  
 36           licensed child placing agency or attorney is entitled to notice of and  
 37           an opportunity to be heard at any of the child's periodic case  
 38           reviews as described in section 4 of this chapter.

39           (d) If more than one (1) licensed child placing agency or  
 40           attorney files a notice under this section:

41           (1) the first agency or attorney that files notice is entitled to  
 42           notice and an opportunity to be heard under section 4 of this

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1 **chapter; and**

2 **(2) the court shall dismiss any subsequent agency filings under**  
3 **this section.**

4 SECTION 3. IC 31-34-21-4, AS ADDED BY P.L.1-1997,  
5 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
6 JULY 1, 1998]: Sec. 4. (a) At least five (5) days before ~~the~~ **each**  
7 **periodic** case review, the county office of family and children shall  
8 send notice of the review to ~~the parent, guardian, or custodian of the~~  
9 ~~child. The county office of family and children may send notice of the~~  
10 ~~review to any foster parent of the child. each of the following:~~

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

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

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

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

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

23 **(C) a petition to terminate the parent-child relationship**  
24 **between the child and any parent who has not executed a**  
25 **written consent to adoption under IC 31-19-9-2 has been**  
26 **filed under IC 31-35 and is pending.**

27 **(4) Any other person who:**

28 **(A) the county office of family and children has knowledge**  
29 **is currently providing care for the child; and**

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

32 **(5) Any other suitable relative or person who the county office**  
33 **of family and children knows has had a significant or**  
34 **caretaking relationship to the child.**

35 **(6) A licensed child placing agency or an attorney**  
36 **representing a prospective adoptive parent who has filed**  
37 **notice with the court as described in section 3.5 of this**  
38 **chapter.**

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



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1           **(c) A person or entity described in subsection (a)(2) through**  
 2           **(a)(6) does not become a party to a proceeding under this chapter**  
 3           **as the result of the person's right to notice and the opportunity to**  
 4           **be heard under this section.**

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

- 8                   (1) whether the child's case plan, services, and placement meet  
 9                   the special needs and best interests of the child;  
 10                   (2) whether the county office of family and children has made  
 11                   reasonable efforts to provide family services; and  
 12                   (3) a projected date for the child's return home, the child's  
 13                   adoption placement, the child's emancipation, or the appointment  
 14                   of a legal guardian for the child.

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.  
 22                   (3) The extent of the efforts made by the county office of family  
 23                   and children to offer and provide family services.  
 24                   (4) The extent to which the parent, guardian, or custodian has  
 25                   enhanced the ability to fulfill parental obligations.  
 26                   (5) The extent to which the parent, guardian, or custodian has  
 27                   visited the child, including the reasons for infrequent visitation.  
 28                   (6) The extent to which the parent, guardian, or custodian has  
 29                   cooperated with the county office of family and children or  
 30                   probation department.  
 31                   (7) The child's recovery from any injuries suffered before  
 32                   removal.  
 33                   (8) Whether any additional services are required for the child or  
 34                   the child's parent, guardian, or custodian and, if so, the nature of  
 35                   those services.  
 36                   (9) The extent to which the child has been rehabilitated.  
 37                   (10) If the child is placed out-of-home, whether the child is in the  
 38                   least restrictive, most family-like setting, and whether the child is  
 39                   placed close to the home of the child's parent, guardian, or  
 40                   custodian.  
 41                   (11) The extent to which the causes for the child's out-of-home  
 42                   placement or supervision have been alleviated.



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1 (12) Whether current placement or supervision by the county  
2 office of family and children should be continued.

3 (13) The extent to which the child's parent, guardian, or custodian  
4 has participated or has been given the opportunity to participate  
5 in case planning, periodic case reviews, dispositional reviews,  
6 placement of the child, and visitation.

7 SECTION 5. 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 formal hearing:

10 (1) every twelve (12) months after:

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

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

14 whichever comes first; or

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

16 **There is a rebuttable presumption that the court retains**  
17 **jurisdiction over a child in need of services for not longer than**  
18 **twelve (12) months after the date of the original dispositional**  
19 **decree or twelve (12) months after the child in need of services was**  
20 **removed from the child's parent, guardian, or custodian,**  
21 **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) consider recommendations of any person or entity listed**  
28 **under section 4 of this chapter, before making a**  
29 **determination under subdivision (4);**

30 ~~(3)~~ **(4)** determine whether the child should:

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 ~~(4)~~ **(5)** examine procedural safeguards used by the county office  
36 of family and children to protect parental rights.

37 (c) **To rebut the presumption**, the state must show that jurisdiction  
38 should continue by proving that the objectives of the dispositional  
39 decree have not been accomplished, ~~and~~ that a continuation of the  
40 decree with or without any modifications ~~has a probability of success.~~  
41 **is necessary, and that it is in the child's best interests for the state**  
42 **to maintain its jurisdiction over the child.** If the state does not

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1 sustain its burden for continued jurisdiction, the court: ~~may~~

2 (1) **shall:**

3 (A) authorize **the county office of family and children to file**  
4 a petition for termination of the parent-child relationship; ~~or~~

5 (B) **authorize a licensed child placing agency or an**  
6 **attorney representing prospective adoptive parents to:**

7 (i) **file a petition for termination of the parent-child**  
8 **relationship; and**

9 (ii) **represent the prospective adoptive parents in the**  
10 **adoption;**

11 **if the prospective adoptive parents have been located for**  
12 **the child at the time the state does not sustain its burden**  
13 **for continued jurisdiction under this subsection; or**

14 (C) **initiate on its own motion a proceeding for termination**  
15 **of the parent-child relationship; or**

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

18 SECTION 6. IC 31-34-21-7.3 IS ADDED TO THE INDIANA  
19 CODE AS A NEW SECTION TO READ AS FOLLOWS  
20 [EFFECTIVE JULY 1, 1998]: **Sec. 7.3. (a) This section applies after:**

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

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

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

26 (b) **The division shall post the following nonidentifying**  
27 **information on the Internet to facilitate a potential adoptive**  
28 **placement of the child:**

29 (1) **The child's age, gender, and summary of the child's**  
30 **educational, social, and medical background, including known**  
31 **disabilities.**

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

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

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

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

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

39 **where a person who may be interested in adopting the child**  
40 **may obtain further information about adopting the child. The**  
41 **information under this subdivision must include an**  
42 **explanation regarding the right of a person who is interested**

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1 in adopting the child to receive notice and have the  
 2 opportunity to be heard at certain child in need of services  
 3 proceedings and termination proceedings in order to express  
 4 the person's interest in adopting the child.

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

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

9 (A) county office of family and children; or

10 (B) licensed child placing agency;

11 where a person who may be interested in adopting the child  
 12 may obtain further information about adopting the child.

13 (c) The information posted under subsection (a) may not  
 14 identify the name of any of the following persons:

15 (1) The child.

16 (2) The child's biological or adoptive parents.

17 (3) A sibling of the child.

18 (4) A caretaker of the child.

19 (d) The division shall update any relevant information under  
 20 this section after either of the following:

21 (1) Each of the child's periodic reviews that occur after the  
 22 information under this section is required to be posted.

23 (2) The rights of the child's parents have been terminated.

24 (e) The division shall remove the information required under  
 25 subsections (b) and (c) from the Internet whenever the child is  
 26 reunited with the child's family or an adoption of the child is filed  
 27 under IC 31-19-2.

28 (f) Upon request, a county office of family and children shall  
 29 inform the person making the request of the address of the Internet  
 30 web site containing the information described in this section.

31 SECTION 7. IC 31-34-21-7.4 IS ADDED TO THE INDIANA  
 32 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 33 [EFFECTIVE JULY 1, 1998]: Sec. 7.4. (a) This section applies  
 34 whenever a court retains its jurisdiction over a child in need of  
 35 services for more than twelve (12) months after:

36 (1) the child is removed from the child's parent, guardian, or  
 37 custodian; or

38 (2) the court enters an original dispositional decree.

39 (b) The county office of family and children may contract with  
 40 a licensed child placing agency:

41 (1) to assume the county office of family and children's role in  
 42 the child in need of services proceeding; and

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- 1           **(2) in an effort to facilitate a permanent placement for the**  
 2           **child.**
- 3           SECTION 8. IC 31-34-21-7.5 IS ADDED TO THE INDIANA  
 4 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 5 [EFFECTIVE JULY 1, 1998]: **Sec. 7.5. (a) This section applies**  
 6 **whenever a court retains its jurisdiction over a child in need of**  
 7 **services for more than twelve (12) months after either:**
- 8           **(1) the child is removed from the child's parent, guardian, or**  
 9           **custodian; or**
- 10           **(2) the court enters its original dispositional decree.**
- 11           **(b) The county office of family and children may contract with**  
 12 **a licensed child placing agency:**
- 13           **(1) to assume the county office of family and children's role in**  
 14 **the child in need of services proceeding; and**
- 15           **(2) in an effort to facilitate a permanent placement for the**  
 16 **child.**
- 17           **(c) The court with jurisdiction over the child may order the**  
 18 **county office of family and children to enter into a contract**  
 19 **described in subsection (b).**
- 20           SECTION 9. IC 31-35-2-4, AS ADDED BY P.L.1-1997, SECTION  
 21 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,  
 22 1998]: **Sec. 4. (a) A verified petition to terminate the parent-child**  
 23 **relationship involving a delinquent child or a child in need of services**  
 24 **may be signed and filed with the juvenile or probate court by any of the**  
 25 **following:**
- 26           **(1) The attorney for the county office of family and children.**  
 27           **(2) The prosecuting attorney.**  
 28           **(3) The child's court appointed special advocate.**  
 29           **(4) The child's guardian ad litem.**
- 30           **(5) A licensed child placing agency whenever:**
- 31           **(A) a court authorizes the agency to file a termination**  
 32 **petition under IC 31-34-21-7; or**
- 33           **(B) the county office of family and children contracts with**  
 34 **the child placing agency under IC 31-34-21-7.5 in an effort**  
 35 **to facilitate a permanent placement for the child.**
- 36           **(6) An attorney who a court authorizes to file a termination**  
 37 **petition under IC 31-34-21-7.**
- 38           **(b) The petition must:**
- 39           **(1) be entitled "In the Matter of the Termination of the**  
 40 **Parent-Child Relationship of \_\_\_\_\_, a child, and**  
 41 **\_\_\_\_\_, the child's parent (or parents)"; and**
- 42           **(2) allege that:**

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- 1 (A) the child has been removed from the parent for at least six  
 2 (6) months under a dispositional decree;  
 3 (B) there is a reasonable probability that:  
 4 (i) the conditions that resulted in the child's removal or the  
 5 reasons for placement outside the home of the parents will  
 6 not be remedied; or  
 7 (ii) the continuation of the parent-child relationship poses a  
 8 threat to the well-being of the child;  
 9 (C) termination is in the best interests of the child; and  
 10 (D) there is a satisfactory plan for the care and treatment of the  
 11 child.

12 SECTION 10. IC 31-35-2-6.5 IS ADDED TO THE INDIANA  
 13 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 14 [EFFECTIVE JULY 1, 1999]: **Sec. 6.5. (a) This section applies to**  
 15 **hearings under this chapter relating to a child in need of services.**

16 **(b) At least five (5) days before a hearing on a petition under**  
 17 **this chapter the person or entity that filed the petition to terminate**  
 18 **the parent-child relationship under section 4 of this chapter shall**  
 19 **send notice of the review to the persons listed in subsection (c).**

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

- 22 **(1) The child's parent, guardian, or custodian.**  
 23 **(2) The child's foster parent.**  
 24 **(3) A prospective adoptive parent named in a petition for**  
 25 **adoption of the child filed under IC 31-19-2 if:**  
 26 **(A) each consent to adoption of the child that is required**  
 27 **under IC 31-19-9-1 has been executed in the form and**  
 28 **manner required by IC 31-19-9 and filed with the county**  
 29 **office of family and children;**  
 30 **(B) the court having jurisdiction in the adoption case has**  
 31 **determined under an applicable provision of IC 31-19-9**  
 32 **that consent to adoption is not required from a parent,**  
 33 **guardian, or custodian; or**  
 34 **(C) a petition to terminate the parent-child relationship**  
 35 **between the child and any parent who has not executed a**  
 36 **written consent to adoption under IC 31-19-9-2 has been**  
 37 **filed under IC 31-35 and is pending.**  
 38 **(4) Any other person who:**  
 39 **(A) the county office of family and children has knowledge**  
 40 **is currently providing care for the child; and**  
 41 **(B) is not required to be licensed under IC 12-17.2 or**  
 42 **IC 12-17.4 to provide care for the child.**

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**(5) Any other suitable relative or person who the county office of family and children knows has had a significant or caretaking relationship to the child.**

**(6) A licensed child placing agency or an attorney representing a prospective adoptive parent who has filed notice with the court as described in section 6.6 of this chapter, unless a court has already authorized a licensed child placing agency or an attorney to:**

**(A) file a petition to terminate the parent-child relationship; and**

**(B) represent the prospective adoptive parents in the adoption;**

**in accordance with IC 31-34-21-7(c)(1)(B).**

**(d) The court shall provide to a person described in subsection (c) an opportunity to be heard and make any recommendations to the court at the hearing under this chapter.**

**(e) A person described in subsection (c)(2) through (c)(6) does not become a party to a proceeding under this chapter as the result of the person's right to notice and the opportunity to be heard under this section.**

**SECTION 11. IC 31-35-2-6.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 6.6. (a) This section applies any time after:**

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

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

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

**(b) Except as provided in section 6.5(c)(6) of this chapter, the following person or entity may file notice with the court that is presiding in a termination proceeding under this chapter regarding a person's interest in adopting the child who is the subject of the termination proceeding:**

**(1) A licensed child placing agency.**

**(2) An attorney representing a prospective adoptive parent who has a preplacement home study prepared by a licensed child placing agency.**

**(c) Whenever notice is filed with the court under this section, the licensed child placing agency or attorney is entitled to notice of and the opportunity to be heard in accordance with section 6.5 of this chapter.**

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1           **(d) If more than one (1) licensed child placing agency or**  
2 **attorney files notice under this section:**  
3           **(1) the first agency or attorney that files notice under this**  
4 **section is entitled to notice and an opportunity to be heard**  
5 **under section 6.5 of this chapter; and**  
6           **(2) the court shall dismiss any subsequent agency or attorney**  
7 **filings under this section.**  
8           SECTION 12. IC 31-34-21-6 IS REPEALED [EFFECTIVE JULY  
9 1, 1998].

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