

January 30, 1998

SENATE BILL No. 81

DIGEST OF SB 81 (Updated January 28, 1998 12:56 pm - DI 51)

Citations Affected: IC 31-30; noncode.

Synopsis: Children in need of services; custody. Allows a court with child custody jurisdiction to modify a child custody order in a dissolution of marriage proceeding that relates to a child who is under juvenile court jurisdiction as the result of a child in need of services proceeding. Provides that whenever a court with child custody jurisdiction modifies child custody under these circumstances, the custody modification takes effect only if the juvenile court: (1) enters an order approving the custody modification; or (2) terminates the child in need of services proceeding. (Current law provides that child custody may not be modified while the child is under the juvenile court jurisdiction as the result of a child in need of services proceeding.) Extends the time in which the Indiana department of health may complete the fiscal study of the special education institutions required by SEA 400-1997.

Effective: July 1, 1998.

Jackman

January 6, 1998, read first time and referred to Committee on Judiciary.
January 29, 1998, amended, reported favorably — Do Pass.

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January 30, 1998

Second Regular Session 110th General Assembly (1998)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1997 General Assembly.

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SENATE BILL No. 81

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 31-30-1-1, AS ADDED BY P.L.1-1997, SECTION
2 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
3 1998]: Sec. 1. A juvenile court has exclusive original jurisdiction,
4 except as provided in sections 9, ~~and~~ 10, **and** 12 of this chapter, in the
5 following:
6 (1) Proceedings in which a child, including a child of divorced
7 parents, is alleged to be a delinquent child under IC 31-37.
8 (2) Proceedings in which a child, including a child of divorced
9 parents, is alleged to be a child in need of services under
10 IC 31-34.
11 (3) Proceedings concerning the paternity of a child under
12 IC 31-14.
13 (4) Proceedings under the interstate compact on juveniles under
14 IC 31-37-23.
15 (5) Proceedings governing the participation of a parent, guardian,
16 or custodian in a program of care, treatment, or rehabilitation for
17 a child under IC 31-34-16 or IC 31-37-15.

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- 1 (6) Proceedings under IC 31-34-4, IC 31-34-5, IC 31-37-5, and
 2 IC 31-37-6 governing the detention of a child before a petition has
 3 been filed.
 4 (7) Proceedings to issue a protective order under IC 31-32-13.
 5 (8) Proceedings in which a child less than sixteen (16) years of
 6 age is alleged to have committed an act that would be a
 7 misdemeanor traffic offense if committed by an adult.
 8 (9) Proceedings in which a child is alleged to have committed an
 9 act that would be an offense under IC 9-30-5 if committed by an
 10 adult.
 11 (10) Other proceedings specified by law.

12 SECTION 2. IC 31-30-1-12 IS ADDED TO THE INDIANA CODE
 13 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 14 1, 1998]: **Sec. 12. A court having jurisdiction under IC 31-17-2 of
 15 a child custody proceeding in a marriage dissolution has
 16 concurrent original jurisdiction with the juvenile court for the
 17 purpose of modifying custody of a child who is under the
 18 jurisdiction of the juvenile court because the child is the subject of
 19 a child in need of services proceeding. However, whenever the
 20 court having child custody jurisdiction under IC 31-17-2 in a
 21 marriage dissolution modifies child custody as provided by this
 22 section, the modification is effective only when the juvenile court:**

- 23 (1) enters an order approving the child custody modification;
 24 or
 25 (2) terminates the child in need of services proceeding.

26 SECTION 3. P.L.55-1997, SECTION 38, IS AMENDED TO READ
 27 AS FOLLOWS [EFFECTIVE UPON PASSAGE]: (a) The
 28 commissioner of the state department of health shall conduct a fiscal
 29 study of the special education institutions under the authority of the
 30 department and alternatives available elsewhere at non-state facilities.

31 (b) The purpose of the fiscal study is to develop recommendations
 32 regarding in-state placement for treatment of delinquent children and
 33 children in need of services in a manner designed to maximize the
 34 resources available and to be cost effective with respect to the
 35 resources utilized on each child.

36 (c) The fiscal study must address the following:

- 37 (1) The full cost of treatment, including educational programs, at
 38 each institution and residential costs at each institution, taking
 39 into consideration the number of students, levels of disability, and
 40 the length of time that educational services and residential
 41 services are offered.
 42 (2) A comparison of student gains, educational attainment, and

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1 educational costs paid from federal, state, and local funding
 2 sources at the special education institutions with the student
 3 gains, educational attainment, and educational costs paid from
 4 federal, state, and local funding sources at public schools having
 5 students with similar disabilities and receiving similar services.

6 (3) A comparison of student gains, educational attainment, and
 7 educational costs at the special education institutions with the
 8 student gains, educational attainment, and educational costs of
 9 similar institutions in other states.

10 (4) The full cost of maintaining a child at each institution detailed
 11 by treatment types and the full cost of alternatives available
 12 elsewhere at non-state facilities.

13 (5) The cost of consolidating one (1) or more special education
 14 facilities at a current or alternative site, taking into consideration
 15 the specific learning and living environments necessary for blind
 16 children and deaf children as well as student learning outcomes
 17 in other states that have consolidated similar institutions.

18 (6) Whether the Indiana Soldier's and Sailor's Children's Home
 19 qualifies for federal funds under the Title IV-E federal program.

20 (7) The feasibility of converting a special education institution
 21 into a juvenile corrections facility, including an estimate of capital
 22 costs.

23 (8) Personnel requirements and costs and capital costs necessary
 24 to operate a special education institution at full capacity.

25 (9) The number of children and the levels of disability that can be
 26 served effectively at the institutions with current physical plant
 27 and personnel resources.

28 (10) Cost effective ways to ensure that the caretakers of children
 29 in Indiana whose needs can be met at the special education
 30 institutions are made aware of the services available at the special
 31 education institutions.

32 (d) The commissioner shall enter a contract with a qualified
 33 individual or firm to conduct the study. ~~The contract must be signed~~
 34 ~~before August 30, 1997.~~

35 (e) The study must be completed before ~~June 30, 1998~~. **December**
 36 **1, 1998**. Not later than ~~July 1, 1998~~; **January 1, 1999**, the
 37 commissioner shall provide copies of the final report to the following:

- 38 (1) The advisory committee of each special education institution
 39 established under IC 16-19-6-9.
 40 (2) The state budget committee.
 41 (3) The governor.
 42 (4) The special education advisory committee.

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1 (f) The division and the following agencies shall develop a
2 comprehensive plan for the identification, evaluation, placement, and
3 treatment of delinquent children and children in need of services and
4 the manner of funding for these services.
5 (1) The Indiana department of health.
6 (2) The division of mental health.
7 (3) The department of correction, for incarcerated youths.
8 (4) The division of disability, aging, and rehabilitative services.
9 (5) The division of special education.
10 (6) Any public or private agency providing special education or
11 other programs for delinquent children and children in need of
12 services.
13 (7) Any other public agency that contracts with any of the
14 agencies described in this subsection.
15 The comprehensive plan shall include a section devoted to the
16 implementation of the recommendations contained in the fiscal study.
17 The comprehensive plan shall be completed and ready for distribution
18 not later than July 1, 1999.
19 (g) This SECTION expires July 1, 1999.
20 **SECTION 4. An emergency is declared for this act.**

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COMMITTEE REPORT

Mr. President: The Senate Committee on Judiciary, to which was referred Senate Bill 81, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, after line 25, begin a new paragraph and insert:

"SECTION 3. P.L.55-1997, SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: (a) The commissioner of the state department of health shall conduct a fiscal study of the special education institutions under the authority of the department and alternatives available elsewhere at non-state facilities.

(b) The purpose of the fiscal study is to develop recommendations regarding in-state placement for treatment of delinquent children and children in need of services in a manner designed to maximize the resources available and to be cost effective with respect to the resources utilized on each child.

(c) The fiscal study must address the following:

(1) The full cost of treatment, including educational programs, at each institution and residential costs at each institution, taking into consideration the number of students, levels of disability, and the length of time that educational services and residential services are offered.

(2) A comparison of student gains, educational attainment, and educational costs paid from federal, state, and local funding sources at the special education institutions with the student gains, educational attainment, and educational costs paid from federal, state, and local funding sources at public schools having students with similar disabilities and receiving similar services.

(3) A comparison of student gains, educational attainment, and educational costs at the special education institutions with the student gains, educational attainment, and educational costs of similar institutions in other states.

(4) The full cost of maintaining a child at each institution detailed by treatment types and the full cost of alternatives available elsewhere at non-state facilities.

(5) The cost of consolidating one (1) or more special education facilities at a current or alternative site, taking into consideration the specific learning and living environments necessary for blind children and deaf children as well as student learning outcomes in other states that have consolidated similar institutions.

(6) Whether the Indiana Soldier's and Sailor's Children's Home qualifies for federal funds under the Title IV-E federal program.

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(7) The feasibility of converting a special education institution into a juvenile corrections facility, including an estimate of capital costs.

(8) Personnel requirements and costs and capital costs necessary to operate a special education institution at full capacity.

(9) The number of children and the levels of disability that can be served effectively at the institutions with current physical plant and personnel resources.

(10) Cost effective ways to ensure that the caretakers of children in Indiana whose needs can be met at the special education institutions are made aware of the services available at the special education institutions.

(d) The commissioner shall enter a contract with a qualified individual or firm to conduct the study. ~~The contract must be signed before August 30, 1997.~~

(e) The study must be completed before ~~June 30, 1998.~~ **December 1, 1998.** Not later than ~~July 1, 1998;~~ **January 1, 1999**, the commissioner shall provide copies of the final report to the following:

(1) The advisory committee of each special education institution established under IC 16-19-6-9.

(2) The state budget committee.

(3) The governor.

(4) The special education advisory committee.

(f) The division and the following agencies shall develop a comprehensive plan for the identification, evaluation, placement, and treatment of delinquent children and children in need of services and the manner of funding for these services.

(1) The Indiana department of health.

(2) The division of mental health.

(3) The department of correction, for incarcerated youths.

(4) The division of disability, aging, and rehabilitative services.

(5) The division of special education.

(6) Any public or private agency providing special education or other programs for delinquent children and children in need of services.

(7) Any other public agency that contracts with any of the agencies described in this subsection.

The comprehensive plan shall include a section devoted to the implementation of the recommendations contained in the fiscal study. The comprehensive plan shall be completed and ready for distribution not later than July 1, 1999.

(g) This SECTION expires July 1, 1999.

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SECTION 4. An emergency is declared for this act."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to Senate Bill 81 as introduced.)

BRAY, Chairperson

Committee Vote: Yeas 6, Nays 1.

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