

CONFERENCE COMMITTEE REPORT DIGEST FOR SB 425

Citations Affected: IC 12-13-5-1; IC 31-9-2-0.5; IC 31-10-2-1; IC 31-33-8-9; IC 31-34; IC 31-35; IC 31-37-13-4; noncode.

Synopsis: Extends the right to notice and the opportunity to be heard at a child's periodic case review, including a permanency hearing, in a child in need of services proceeding and at any hearings in an involuntary termination proceeding with respect to the child to the following persons: (1) The child's foster parent. (2) A prospective adoptive parent named in a petition for adoption under certain circumstances. (3) Any other person who the county office of family and children knows is currently providing care for the child. (4) Any other suitable relative or other guardian or custodian. Retains the county office of family and children's responsibility to send notice of a child's periodic case review to each party in a child in need of services proceeding in which the original dispositional decree was issued. 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. Requires a court to conduct a permanency hearing under certain circumstances and prescribes guidelines for the hearing. Provides that there is a rebuttable presumption that jurisdiction over a child in need of services continues for not longer than 12 months after the original dispositional decree or 12 months after the child was removed from the home, whichever occurs first. Requires a petition to terminate the parent-child relationship to be filed and a hearing on the petition to be conducted if: (1) a child in need of services has been in a certain out-of-home placement for at least 15 months out of the most recent 22 months; or (2) a court has made a finding that reasonable efforts for family preservation or reunification with respect to a child in need of services are not required. Provides for certain standards and procedures to apply whenever it is mandatory to file a petition to terminate the parent-child relationship. Provides for certain phase-in deadlines applicable to when certain mandatory termination proceedings must begin to be conducted. Confers upon the division of family and children the duty to provide permanency planning services to children in need of services, including making children available for adoption and placing children in adoptive homes in a timely manner. Expands the policy of the state and purpose statement of the juvenile code to include providing adoption as a viable permanency plan for children who have been adjudicated as children in need of services. Provides that reasonable efforts to reunify or preserve a child's family are not required if the child's parent, guardian, or custodian has been convicted of certain offenses against the child or a parent of the child. Requires a juvenile court to review a child's case once every six months until a petition for adoption is filed whenever the juvenile or probate court terminates the parent-child relationship with regard to the child. Requires that during each periodic case review of a child in need of services certain written documentation must be provided describing the family services that have been offered or provided. Requires a county office of family and children to submit certain additional written information to a parent, guardian, or custodian of a child who is alleged to be in need of services including the right of a child's parent, guardian, or custodian to be represented by a court appointed attorney in each child in need of services proceeding if the parent, guardian, or custodian does not have sufficient financial means to hire an attorney. Requires that a detention hearing must be held by a court within 48 hours after a child's removal from the home or else the child must be released back to the child's parent,

guardian, or custodian. Removes a provision that provides that adoption incentive payments paid to Indiana under the federal Adoption and Safe Families Act must be used to facilitate the adoption of children who are in need of services and may be used for postadoption services. This conference committee report requires the county office of family and children to submit certain additional written information advising a parent, guardian, or custodian of a child alleged to be in need of services that after July 1, 1999 a petition to terminate the parent-child relationship must be filed whenever a child has been removed from the child's parent and has been under the supervision of the county office of family and children for at least 15 months of the most recent 22 months. Requires that whenever a hearing is requested on a petition to involuntarily terminate the parent-child relationship, a court must commence the hearing not more than 90 days after the petition is filed. Applies this requirement to proceedings to involuntarily terminate the parent-child relationship involving: (1) a child in need of services or a delinquent child; or (2) a parent who has been convicted of a certain offense. (Under current law, the court is not required to conduct the involuntary termination hearing within a specified period after the petition is filed.) Removes a provision that would have added an additional periodic case review within 15 months after the child's removal from the home or 15 months after the dispositional decree is entered, whichever occurs first, which would have applied in certain cases when a child's parent, guardian, or custodian has significantly improved in certain areas. Provides that, at the child's permanency hearing, if the county office of family and children does not sustain its burden for continued jurisdiction of a child in need of services proceeding after a certain 12 month period, the court shall: (1) direct the county office of family and children to establish a permanency plan within 30 days; or (2) discharge the child and the child's parent, guardian, or custodian. Allows the court to retain its jurisdiction to the extent necessary to carry out any orders regarding the permanency plan. Requires a party to a mandatory petition to terminate the parent-child relationship to file a motion to dismiss the petition to terminate the parent-child relationship if any of the following apply: (1) The child is being cared for by a certain relative. (2) Termination would not be in the child's best interests. (3) The county office of family and children has not provided adequate services to the child. (4) The completion of the program for family services has not expired. Requires the court to dismiss the termination petition if any of the four above-mentioned factors apply. Removes a provision that waives court costs and fees in adoption proceedings if a petitioner seeks to adopt a child less than 18 years of age who has been adjudicated a child in need of services and who is a ward of a county office of family and children at the time of the filing of the adoption petition. Removes a provision that would have allowed the county office of family and children to contract with a licensed child placing agency to facilitate a permanent placement for a child provided that the state has retained its jurisdiction over the child for more than 12 months after: (1) the child has been removed from the home; or (2) the court enters its original dispositional decree. Removes the language that specifies that a petition to terminate the parent-child relationship must be verified. Makes certain other changes.

Effective: Upon passage; July 1, 1998; July 1, 1999.

Adopted

Rejected

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT:

Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill No. 425 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

- 1 Page 4, delete lines 29 through 42.
- 2 Page 5, delete lines 1 through 5.
- 3 Page 6, line 16, delete "seventy-two (72)" and insert "**forty-eight**
- 4 **(48)**".
- 5 Page 6, line 24, delete "is".
- 6 Page 6, line 25, delete "entitled" and insert "**has the right**".
- 7 Page 6, line 29, delete "IC 34-10-1-1 and" and insert "**IC**
- 8 **34-1-1-3**".
- 9 Page 6, delete line 30.
- 10 Page 6, line 35, after "to" insert "**request to**".
- 11 Page 6, between lines 36 and 37, begin a new line block indented
- 12 and insert:
- 13 "**(5) The right to be advised that after July 1, 1999, a petition**
- 14 **to terminate the parent-child relationship must be filed**
- 15 **whenever a child has been removed from the child's parent**
- 16 **and has been under the supervision of the county office of**
- 17 **family and children for at least fifteen (15) months of the**
- 18 **most recent twenty-two (22) months.**".
- 19 Page 7, line 4, delete "IC 31-35-2-4.7(c)" and insert "**IC**
- 20 **31-35-2-4.5(d)**".
- 21 Page 8, line 24, before "proceeding" insert "**child in need of**
- 22 **services**".
- 23 Page 8, line 24, delete "in which the original dispositional decree
- 24 was issued".

- 1 Page 9, delete line 42.
- 2 Page 10, delete lines 1 through 17.
- 3 Page 10, line 31, after "home" insert "**as soon as possible**".
- 4 Page 10, line 37, after "reunify" insert "**a child with the child's**
- 5 **parent, guardian, or custodian**".
- 6 Page 11, delete lines 14 and 15.
- 7 Page 11, line 32, delete "or a parent of" and insert ".".
- 8 Page 11, delete line 33.
- 9 Page 12, line 40, delete "7(b)(3)" and insert "**7(b)(4)**".
- 10 Page 13, line 3, after "(1)" insert "**with court approval**".
- 11 Page 13, line 7, delete "Unless consistent with or required by the
- 12 child's permanency" and insert "**This subsection applies whenever the**
- 13 **child's approved permanency plan under section 7 of this chapter**
- 14 **is placement of the child for adoption or another planned,**
- 15 **permanent living arrangement.**".
- 16 Page 13, line 8, delete "plan, periodic" and insert "**Periodic**".
- 17 Page 13, delete lines 11 through 13.
- 18 Page 13, line 14, delete "(2)" and insert "**(1)**".
- 19 Page 13, delete lines 18 through 20.
- 20 Page 13, line 21, delete "(4)" and insert "**(2)**".
- 21 Page 13, delete lines 23 through 28.
- 22 Page 14, line 6, delete "4" and insert "**11**".
- 23 Page 14, line 33, strike "state" and insert "**county office of family**
- 24 **and children**".
- 25 Page 14, line 35, strike "authorize" and insert "**direct**".
- 26 Page 14, line 35, delete "file" and insert "**establish a permanency**
- 27 **plan within thirty (30) days; or**".
- 28 Page 14, line 35, strike "a".
- 29 Page 14, line 36, strike "petition for termination of the parent-child
- 30 relationship".
- 31 Page 14, line 36, delete "within" and insert "; or".
- 32 Page 14, delete line 37.
- 33 Page 14, line 39, delete "; or" and insert ".".
- 34 Page 14, delete lines 40 through 42.
- 35 Page 15, line 2, delete "subdivisions (1) through (3)" and insert
- 36 "**subdivision (1)**".
- 37 Page 16, delete lines 10 through 20.
- 38 Page 17, line 25, strike "verified".
- 39 Page 18, between lines 16 and 17, begin a new line block indented
- 40 and insert:
- 41 "**(3) Indicate whether at least one (1) of the factors listed in**
- 42 **section 4.5(d)(1) through 4.5(d)(4) applies that would require**
- 43 **the court to dismiss the petition to terminate the parent-child**
- 44 **relationship under this chapter and specify each factor that**
- 45 **would apply as the basis for the dismissal of the petition.**".
- 46 Page 19, line 4, after "(d)" delete "The attorney for the county
- 47 office of family and children" and insert "**A party shall file a motion**
- 48 **to dismiss the petition to terminate the parent-child relationship if**
- 49 **any of the following circumstances apply:**".
- 50 Page 19, delete lines 5 through 12.

- 1 Page 20, between lines 5 and 6, begin a new line blocked left and
2 insert:
3 **"The motion to dismiss shall specify which of the allegations**
4 **described in subdivisions (1) through (4) apply to the motion. If the**
5 **court finds that any of the allegations described in subdivisions (1)**
6 **through (4) are true, as established by a preponderance of the**
7 **evidence, the court shall dismiss the petition to terminate the**
8 **parent-child relationship."**
- 9 Page 20, delete lines 6 through 39.
- 10 Page 21, line 4, delete "conduct" and insert "**commence**".
- 11 Page 21, line 14, delete "the county office of family and children,
12 if a petition" and insert "**the person or entity who filed a motion to**
13 **dismiss the petition to terminate the parent-child relationship**
14 **under section 4.5(d) of this chapter**".
- 15 Page 22, between lines 4 and 5, begin a new line block indented
16 and insert:
17 **"(6) Any other party to the child in need of services**
18 **proceeding."**
- 19 Page 22, line 14, delete "4.7 and insert "**4.5(d)**".
- 20 Page 22, line 25, delete "conduct" and insert "**commence**".
- 21 Page 23, delete lines 10 through 42.
- 22 Page 24, delete lines 1 through 5.
- 23 Page 24, between lines 14 and 15, begin a new paragraph and
24 insert:
25 **"SECTION 27. [EFFECTIVE 1, 1998] At] a child's first periodic**
26 **case review occurring after June 30, 1998, the county office of**
27 **family and children is required to advise the child's parent,**
28 **guardian, or custodian in writing that a petition to terminate the**
29 **parent-child relationship must be filed with respect to the child**
30 **after June 30, 1999 if the child has been removed from the child's**
31 **parent and has been under the supervision of a county office of**
32 **family and children for at least fifteen (15) months of the most**
33 **recent twenty-two (22) months. However, if a child's parent,**
34 **guardian, or custodian fails to appear at the first periodic case**
35 **review occurring after June 30, 1998, the county office of family**
36 **and children shall make reasonable efforts to send notice of the**
37 **advisement to the last known address of the parent, guardian, or**
38 **custodian."**
- 39 Renumber all SECTIONS consecutively.
40 (Reference is to ESB 425 as reprinted February 23, 1998.)

Conference Committee Report
on
Senate Bill 425

Signed by:

Senator Clark

Representative Foley

Senator Rogers

Representative Klinker

Senate Conferees

House Conferees