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ENGROSSED
SENATE BILL No. 425

DIGEST OF SB 425 (Updated February 20, 1998 6:52 pm - DI 76)

Citations Affected: IC 12-13; IC 31-9; IC 31-10; IC 31-19; IC 31-33; IC 31-34; IC 31-35; IC 31-37; IC 31-40; IC 33-19; noncode.

Synopsis: Adoption and safe families act. Requires that whenever a hearing is requested on a petition to involuntarily terminate the parent-child relationship, a court must conduct 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.) 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

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

Clark, Rogers, Miller, Lanane, Kenley, Merritt, Breaux, Randolph, Alexa, Wyss, Howard, Gard, Skillman, Ford, Long, Wolf, Simpson

(HOUSE SPONSORS — KLINKER, LINDER, KROMKOWSKI, AVERY, BUDAK)

January 13, 1998, read first time and referred to Committee on Judiciary.
January 22, 1998, amended, reported favorably — Do Pass.
January 26, 1998, reassigned to Committee on Finance.
January 29, 1998, reported favorably — Do Pass.
February 2, 1998, read second time, amended, ordered engrossed.
February 3, 1998, engrossed. Read third time, passed. Yeas 50, nays 0.

HOUSE ACTION

February 10, 1998, read first time and referred to Committee on Judiciary.
February 17, 1998, amended, reported — Do Pass.

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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. Provides the county office of family and children may 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. 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. Allows the state to rebut the presumption by establishing that certain objectives have not been accomplished and that it is in the child's best interests for the court to maintain its jurisdiction over the child. Allows a court to discharge the child in need of services and the child's parent, guardian, or custodian subject to any conditions that the court considers necessary to the child's best interests. Adds an additional periodic case review within 15 months after the child's removal from the home or within 15 months after the dispositional decree is entered, whichever occurs first, which applies in certain cases when a child's parent, guardian, or custodian has significantly improved in certain areas. 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. Allows the county office of family and children to file a petition or motion requesting that the court not terminate the parent-child relationship in the above-named circumstances if: (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; or (4) the completion of the program for family services has not expired. 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. 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. 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

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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. 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. 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.

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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 ENROLLED ACT No. 425

AN ACT to amend the Indiana Code concerning family law.

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

SECTION 1. IC 12-13-5-1, AS AMENDED BY P.L.1-1997, SECTION 53, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 1. The division shall administer or supervise the public welfare activities of the state. The division has the following powers and duties:

(1) The administration of old age assistance, aid to dependent children, and assistance to the needy blind and persons with disabilities, excluding assistance to children with special health care needs.

(2) The administration of the following:

(A) Any public child welfare service.

(B) The licensing and inspection under IC 12-17.2 and IC 12-17.4.

(C) The care of dependent and neglected children in foster family homes or institutions, especially children placed for adoption or those born out of wedlock.

(D) The interstate placement of children.

(3) The provision of services to county governments, including the following:

(A) Organizing and supervising county offices for the effective

administration of public welfare functions.

(B) Compiling statistics and necessary information concerning public welfare problems throughout Indiana.

(C) Researching and encouraging research into crime, delinquency, physical and mental disability, and the cause of dependency.

(4) Prescribing the form of, printing, and supplying to the county departments blanks for applications, reports, affidavits, and other forms the division considers necessary and advisable.

(5) Cooperating with the federal Social Security Administration and with any other agency of the federal government in any reasonable manner necessary and in conformity with IC 12-13 through IC 12-19 to qualify for federal aid for assistance to persons who are entitled to assistance under the federal Social Security Act. The responsibilities include the following:

(A) Making reports in the form and containing the information that the federal Social Security Administration Board or any other agency of the federal government requires.

(B) Complying with the requirements that a board or agency finds necessary to assure the correctness and verification of reports.

(6) Appointing from eligible lists established by the state personnel board employees of the division necessary to effectively carry out IC 12-13 through IC 12-19. The division may not appoint a person who is not a citizen of the United States and who has not been a resident of Indiana for at least one (1) year immediately preceding the person's appointment unless a qualified person cannot be found in Indiana for a position as a result of holding an open competitive examination.

(7) Assisting the office of Medicaid policy and planning in fixing fees to be paid to ophthalmologists and optometrists for the examination of applicants for and recipients of assistance as needy blind persons.

(8) When requested, assisting other departments, agencies, divisions, and institutions of the state and federal government in performing services consistent with this article.

(9) Acting as the agent of the federal government for the following:

(A) In welfare matters of mutual concern under IC 12-13 through IC 12-19.

(B) In the administration of federal money granted to Indiana in aiding welfare functions of the state government.

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(10) Administering additional public welfare functions vested in the division by law and providing for the progressive codification of the laws the division is required to administer.

(11) Transferring to each county that is required to submit a schedule under IC 12-19-1-9(d) an amount equal to the scheduled amount of the county's lease and rental obligations as provided in IC 12-19-1-9.

(12) Supervising day care centers and child placing agencies.

(13) Supervising the licensing and inspection of all public child caring agencies.

(14) Supervising the care of delinquent children and children in need of services.

(15) Assisting juvenile courts as required by IC 31-30 through IC 31-40.

(16) Supervising the care of dependent children and children placed for adoption.

(17) Compiling information and statistics concerning the ethnicity and gender of a program or service recipient.

(18) Providing permanency planning services for children in need of services, including:

(A) making children legally available for adoption; and

(B) placing children in adoptive homes;

in a timely manner.

SECTION 2. IC 31-9-2-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: **Sec. 0.5. "Abandoned infant", for purposes of IC 31-34-21-5.6, means a child who is less than twelve (12) months of age and whose parent, guardian, or custodian:**

(1) has knowingly or intentionally left the child in:

(A) an environment that endangers the child's life or health; or

(B) a hospital or medical facility; and

(2) has no reasonable plan to assume the care, custody, and control of the child.

SECTION 3. IC 31-10-2-1, AS ADDED BY P.L.1-1997, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 1. It is the policy of this state and the purpose of this title to:

(1) recognize the importance of family and children in our society;

(2) recognize the responsibility of the state to enhance the viability of children and family in our society;

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(3) acknowledge the responsibility each person owes to the other;

(4) strengthen family life by assisting parents to fulfill their parental obligations;

(5) ensure that children within the juvenile justice system are treated as persons in need of care, protection, treatment, and rehabilitation;

(6) remove children from families only when it is in the child's best interest or in the best interest of public safety;

(7) provide for adoption as a viable permanency plan for children who are adjudicated children in need of services;

~~(7)~~ **(8)** provide a juvenile justice system that protects the public by enforcing the legal obligations that children have to society and society has to children;

~~(8)~~ **(9)** use diversionary programs when appropriate;

~~(9)~~ **(10)** provide a judicial procedure that:

(A) ensures fair hearings;

(B) recognizes and enforces the legal rights of children and their parents; and

(C) recognizes and enforces the accountability of children and parents;

~~(10)~~ **(11)** promote public safety and individual accountability by the imposition of appropriate sanctions; and

~~(11)~~ **(12)** provide a continuum of services developed in a cooperative effort by local governments and the state.

SECTION 4. IC 31-33-8-9, AS ADDED BY P.L.1-1997, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 9. (a) The local child protection service's report under section ~~7~~ **8** of this chapter shall be made available to:

(1) the appropriate court;

(2) the prosecuting attorney; or

(3) the appropriate law enforcement agency;

upon request.

(b) If child abuse or neglect is substantiated after an investigation is conducted under section 7 of this chapter, the local child protection service shall forward its report to the office of the prosecuting attorney having jurisdiction in the county in which the alleged child abuse or neglect occurred.

~~(b)~~ **(c)** If the investigation substantiates a finding of child abuse or neglect as determined by the local child protection service, a report shall be sent to the coordinator of the community child protection team under IC 31-33-3.

SECTION 5. IC 31-34-4-6, AS ADDED BY P.L.1-1997, SECTION

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17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 6. ~~(a) This section applies if a child alleged to be a child in need of services is taken into custody under sections 1 through 5 of this chapter.~~

~~(b)~~ **(a)** The county office of family and children shall submit written information to a ~~child's~~ parent, custodian, or guardian ~~at the time the child is taken into custody~~ **of a child who is alleged to be abused or neglected** regarding the following legal rights of the parent, custodian, or guardian:

(1) The right to have a detention hearing held by a court within forty-eight (48) hours after the child's removal from the home and to request return of the child at the hearing.

~~(1)~~ **(2)** The right to:

(A) be represented by an attorney;

(B) cross examine witnesses; and

(C) present evidence on the parent's, custodian's, or guardian's own behalf;

at each court proceeding on a petition alleging that the child is a child in need of services. **The parent, guardian, or custodian has the right to be represented by a court appointed attorney under clause (A) upon the request of the parent, guardian, or custodian if the court finds that the parent, guardian, or custodian does not have sufficient financial means for obtaining representation as described in IC 34-1-1-3.**

~~(2)~~ **(3)** The right not to make statements that incriminate the parent, custodian, or guardian and that an incriminating statement may be used during a court proceeding on a petition alleging that the child is a child in need of services.

(4) The right to request to have the case reviewed by the child protection team under IC 31-33-3-6.

(5) The right to be advised 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 fifteen (15) months of the most recent twenty-two (22) months.

(b) The county office of family and children shall submit the written information under subsection (a) to the child's parent, guardian, or custodian at the time:

(1) the child is taken into custody; or

(2) the county office of family and children files a petition alleging that the child is a child in need of services;

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whichever occurs earlier.

SECTION 6. IC 31-34-5-1, AS ADDED BY P.L.1-1997, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 1. If a child taken into custody under IC 31-34-2 is not released, a detention hearing shall be held not later than ~~seventy-two (72)~~ **forty-eight (48)** hours, excluding Saturdays, Sundays, and legal holidays, after the child is taken into custody. If the detention hearing is not held, the child shall be released. Notice of the time, place, and purpose of the detention hearing shall be given to the following:

(1) The child.

(2) The child's parent, guardian, or custodian if the person can be located.

SECTION 7. IC 31-34-11-4, AS ADDED BY P.L.1-1997, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 4. (a) Except as provided in subsection (b), at the close of all the evidence and before judgment is entered, the court may continue the case for not more than twelve (12) months.

(b) If the child or the child's parent, guardian, or custodian requests that judgment be entered, the judgment shall be entered not later than thirty (30) days after the request is made.

(c) If the child is in a juvenile detention facility, the child shall be released not later than ~~seventy-two (72)~~ **forty-eight (48)** hours, excluding Saturdays, Sundays, and legal holidays, pending the entry of judgment. A child released from a juvenile detention facility pending the entry of judgment may be detained in a shelter care facility.

SECTION 8. IC 31-34-12-2, AS ADDED BY P.L.1-1997, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 2. **Except as provided in IC 31-35-2-4.5(d),** a finding in a proceeding to terminate parental rights must be based upon clear and convincing evidence.

SECTION 9. IC 31-34-21-2, AS ADDED BY P.L.1-1997, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. (a) In accordance with federal law, the case of each child in need of services under the supervision of the county office of family and children must be reviewed at least once every six (6) months, or more often, if ordered by the court.

(b) The first of these periodic case reviews must occur:

(1) at least six (6) months after the date of the child's removal from the child's parent, guardian, or custodian; or

(2) at least six (6) months after the date of the dispositional decree;

whichever comes first.

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(c) ~~A~~ **Each periodic** case review ~~may~~ **must** be conducted ~~either~~ by

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

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

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

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

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

(2) The child's foster parent.

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

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

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

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

(4) Any other person who:

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

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

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

(b) The court shall provide to a person described in subsection

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(a) an opportunity to be heard and to make any recommendations to the court in a periodic case review, including a permanency hearing under section 7 of this chapter.

(c) This section does not exempt the county office of family and children from sending a notice of the review to each party to the child in need of services proceeding.

SECTION 11. IC 31-34-21-5, AS ADDED BY P.L.1-1997, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 5. (a) The ~~panel or~~ court shall determine:

(1) whether the child's case plan, services, and placement meet the special needs and best interests of the child;

(2) whether the county office of family and children has made reasonable efforts to provide family services; and

(3) a projected date for the child's return home, the child's adoption placement, the child's emancipation, or the appointment of a legal guardian for the child **under section 7.5(1)(E) of this chapter.**

(b) The determination of the ~~panel~~ **court** under subsection (a) must be based on findings written after consideration of the following:

(1) Whether the county office of family and children, the child, or the child's parent, guardian, or custodian has complied with the child's case plan.

(2) ~~What family services have been provided and offered to the child or the child's parent, guardian, or custodian.~~ **Written documentation containing descriptions of:**

(A) the family services that have been offered or provided to the child or the child's parent, guardian, or custodian;

(B) the dates during which the family services were offered or provided; and

(C) the outcome arising from offering or providing the family services.

(3) The extent of the efforts made by the county office of family and children to offer and provide family services.

(4) The extent to which the parent, guardian, or custodian has enhanced the ability to fulfill parental obligations.

(5) The extent to which the parent, guardian, or custodian has visited the child, including the reasons for infrequent visitation.

(6) The extent to which the parent, guardian, or custodian has cooperated with the county office of family and children or probation department.

(7) The child's recovery from any injuries suffered before removal.

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(8) Whether any additional services are required for the child or the child's parent, guardian, or custodian and, if so, the nature of those services.

(9) The extent to which the child has been rehabilitated.

(10) If the child is placed out-of-home, whether the child is in the least restrictive, most family-like setting, and whether the child is placed close to the home of the child's parent, guardian, or custodian.

(11) The extent to which the causes for the child's out-of-home placement or supervision have been alleviated.

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

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

(14) Whether the county office of family and children has made reasonable efforts to reunify or preserve a child's family unless reasonable efforts are not required under section 5.6 of this chapter.

(15) Whether it is an appropriate time to prepare or implement a permanency plan for the child under section 7.5 of this chapter.

SECTION 12. IC 31-34-21-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: **Sec. 5.5. (a) In determining the extent to which reasonable efforts to reunify or preserve a family are appropriate under this chapter, the child's health and safety are of paramount concern.**

(b) Except as provided in section 5.6 of this chapter, a county office of family and children shall make reasonable efforts to preserve and reunify families as follows:

(1) If a child has not been removed from the child's home, to prevent or eliminate the need for removing the child from the child's home.

(2) If a child has been removed from the child's home, as soon as possible to make it possible for the child to return safely to the child's home.

SECTION 13. IC 31-34-21-5.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: **Sec. 5.6. (a) A court may make a finding described in this section at any phase of a child in need of**

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services proceeding.

(b) Reasonable efforts to reunify a child with the child's parent, guardian, or custodian or preserve a child's family as described in section 5.5 of this chapter are not required if the court finds any of the following:

(1) A parent, guardian, or custodian of a child who is a child in need of services has been convicted of:

(A) an offense described in IC 31-35-3-4(1)(B) or IC 31-35-3-4(1)(D) through IC 31-35-3-4(J) against a victim who is:

(i) a child described in IC 31-35-3-4(2); or

(ii) a parent of the child; or

(B) a comparable offense as described in clause (A) in any other state, territory, or country by a court of competent jurisdiction.

(2) A parent, guardian, or custodian of a child who is a child in need of services:

(A) has been convicted of:

(i) the murder (IC 35-42-1-1) or voluntary manslaughter (IC 35-42-1-3) of a victim who is a child described in IC 31-35-3-4(2)(B) or a parent of the child; or

(ii) a comparable offense described in item (i) in any other state, territory, or country; or

(B) has been convicted of:

(i) aiding, inducing, or causing another person;

(ii) attempting; or

(iii) conspiring with another person;

to commit an offense described in clause (A).

(3) A parent, guardian, or custodian of a child who is a child in need of services has been convicted of:

(A) battery (IC 35-42-2-1 (a)(4)) as a Class B felony;

(B) battery (IC 35-42-2-1(a)(3)) as a Class C felony;

(C) aggravated battery (IC 35-42-2-1.5);

(D) criminal recklessness (IC 35-42-2-2(c)) as a Class C felony; or

(E) a comparable offense described in clauses (A) through (D) in another state, territory, or country;

against a child described in IC 31-35-3-4(2)(B).

(4) The parental rights of a parent with respect to a biological or adoptive sibling of a child who is a child in need of services have been involuntarily terminated by a court under:

(A) IC 31-35-2 (involuntary termination involving a

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delinquent child or a child in need of services);

(B) IC 31-35-3 (involuntary termination involving an individual convicted of a criminal offense); or

(C) any comparable law described in clause (A) or (B) in any other state, territory, or country.

(5) The child is an abandoned infant, provided that the court:

(A) has appointed a guardian ad litem or court appointed special advocate for the child; and

(B) after receiving a written report and recommendation from the guardian ad litem or court appointed special advocate, and after a hearing, finds that reasonable efforts to locate the child's parents or reunify the child's family would not be in the best interests of the child.

SECTION 14. IC 31-34-21-5.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: **Sec. 5.7. (a) This section applies at any phase of a child in need of services proceeding whenever a court enters a finding that reasonable efforts to reunify or preserve a child's family are not required under section 5.6 of this chapter.**

(b) The county office of family and children shall do the following:

(1) Complete a permanency plan for the child that complies with the requirements of section 7.5 of this chapter.

(2) Seek court approval of the permanency plan under section 7 of this chapter.

(c) Notwithstanding any otherwise applicable requirements under IC 31-34, whenever the county office of family and children seeks approval of a permanency plan for the child under subsection (b), the following reports, orders, and hearings are not required:

(1) A predispositional report to consider participation of a child's parent, guardian, or custodian in any program of care, treatment, or rehabilitation of the child.

(2) A dispositional decree under IC 31-34-19-6 and findings and conclusions under IC 31-34-19-10 that concern:

(A) participation of the child's parent, guardian, or custodian in a program for future care or treatment of the child; or

(B) reasonable efforts to prevent the child's removal from the child's home or to reunite the child with the child's parent, guardian, or custodian.

SECTION 15. IC 31-34-21-5.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS

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[EFFECTIVE JULY 1, 1998]: **Sec. 5.8. (a) This section applies only if a court has approved a permanency plan for a child under section 7(b)(4) of this chapter.**

(b) If the continuation of reasonable efforts to preserve and reunify a child in need of services with the child's family is inconsistent with the child's permanency plan, the county office of family and children shall make reasonable efforts to:

(1) with court approval place the child in an out-of-home placement in accordance with the permanency plan; and

(2) complete whatever steps are necessary to finalize the permanent placement of the child in a timely manner.

(c) This subsection applies whenever the child's approved permanency plan under section 7 of this chapter is placement of the child for adoption or another planned, permanent living arrangement. Periodic progress reports, case reviews, and postdispositional hearings to determine whether or the extent to which the following have occurred are not required:

(1) Whether reasonable efforts have been made to eliminate the need for removal of the child from the child's home or to make it possible for the child to safely return to the child's home.

(2) Whether the child is placed in close proximity to the home of the child's parent, guardian, or custodian.

SECTION 16. IC 31-34-21-7, AS ADDED BY P.L.1-1997, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 7. (a) The court shall hold a ~~formal~~ **permanency** hearing:

(1) not more than thirty (30) days after a court finds that reasonable efforts to reunify or preserve a child's family are not required as described in section 5.6 of this chapter;

~~(1)~~ **(2)** every twelve (12) months after:

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

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

whichever comes first; or

~~(2)~~ **(3)** more often if ordered by the juvenile court.

(b) The court shall:

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

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

(3) consider recommendations of persons listed under section

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11 of this chapter, before approving a permanency plan under subdivision (4);

~~(3) determine whether the child should:~~ **(4) consider and approve a permanency plan for the child that complies with the requirements set forth in section 7.5 of this chapter;**

~~(A) return home;~~

~~(B) continue in foster care;~~

~~(C) be placed for adoption; or~~

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

(5) determine whether an existing permanency plan must be modified; and

~~(4)~~ **(6)** examine procedural safeguards used by the county office of family and children to protect parental rights.

(c) ~~The state must show that jurisdiction should continue by proving that the objectives of the dispositional decree have not been accomplished, and that a continuation of the decree with or without any modifications has a probability of success.~~ **There is a rebuttable presumption that jurisdiction over the child in a child in need of services proceeding continues for not longer than twelve (12) months after the date of the original dispositional decree or twelve (12) months after the child in need of services was removed from the child's parent, guardian, or custodian, whichever occurs first. The state may rebut the presumption and show that jurisdiction should continue by proving that the objectives of the dispositional decree have not been accomplished, that a continuation of the decree with or without any modifications is necessary, and that it is in the child's best interests for the court to maintain its jurisdiction over the child.** If the ~~state~~ **county office of family and children** does not sustain its burden for continued jurisdiction, the court ~~may:~~ **shall:**

(1) ~~authorize~~ **direct the county office of family and children to establish a permanency plan within thirty (30) days; or** ~~a petition for termination of the parent-child relationship~~; or

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

The court may retain jurisdiction to the extent necessary to carry out any orders under subdivision (1).

SECTION 17. IC 31-34-21-7.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: **Sec. 7.3. (a) This section applies after:**

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

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

in relation to a child in need of services.

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

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

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

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

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

(A) county office of family and children; or

(B) licensed child placing agency;

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

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

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

(A) county office of family and children; or

(B) licensed child placing agency;

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

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

(1) The child.

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

(3) A sibling of the child.

(4) A caretaker of the child.

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

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

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

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

(f) Upon request, a county office of family and children shall

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inform the person making the request of the address of the Internet Web site containing the information described in this section.

SECTION 18. IC 31-34-21-7.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: **Sec. 7.5. A permanency plan under this chapter includes the following:**

(1) The intended permanent or long term arrangements for care and custody of the child that may include any of the following arrangements that the court considers most appropriate and consistent with the best interests of the child:

(A) Return to or continuation of existing custodial care within the home of the child's parent, guardian, or custodian or placement of the child with the child's noncustodial parent.

(B) Initiation of a proceeding by the agency or appropriate person for termination of the parent-child relationship under IC 31-35.

(C) Placement of the child for adoption.

(D) Placement of the child with a responsible person, including:

(i) an adult sibling;

(ii) a grandparent;

(iii) an aunt;

(iv) an uncle; or

(v) other relative;

who is able and willing to act as the child's permanent custodian and carry out the responsibilities required by the permanency plan.

(E) Appointment of a legal guardian. The legal guardian appointed under this section is a caretaker in a judicially created relationship between the child and caretaker that is intended to be permanent and self-sustaining as evidenced by the transfer to the caretaker of the following parental rights with respect to the child:

(i) Care, custody, and control of the child.

(ii) Decision making concerning the child's upbringing.

(F) Placement of the child in another planned, permanent living arrangement.

(2) A time schedule for implementing the applicable provisions of the permanency plan.

(3) Provisions for temporary or interim arrangements for care and custody of the child, pending completion of

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implementation of the permanency plan.

(4) Other items required to be included in a case plan under IC 31-34-15 or federal law, consistent with the permanent or long term arrangements described by the permanency plan.

SECTION 19. IC 31-35-2-4, AS ADDED BY P.L.1-1997, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 4. (a) A ~~verified~~ petition to terminate the parent-child relationship involving a delinquent child or a child in need of services may be signed and filed with the juvenile or probate court by any of the following:

(1) The attorney for the county office of family and children.

(2) The prosecuting attorney.

(3) The child's court appointed special advocate.

(4) The child's guardian ad litem.

(b) The petition must:

(1) be entitled "In the Matter of the Termination of the Parent-Child Relationship of _____, a child, and _____, the child's parent (or parents)"; and

(2) allege **that:**

(A) one (1) of the following exists:

~~(A)~~ **(i)** The child has been removed from the parent for at least six (6) months under a dispositional decree;

(ii) a court has entered a finding under IC 31-34-21-5.6 that reasonable efforts for family preservation or reunification are not required, including a description of the court's finding, the date of the finding, and the manner in which the finding was made; or

(iii) after July 1, 1999, the child has been removed from the parent and has been under the supervision of a county office of family and children for at least fifteen (15) months of the most recent twenty-two (22) months;

(B) there is a reasonable probability that:

(i) the conditions that resulted in the child's removal or the reasons for placement outside the home of the parents will not be remedied; or

(ii) the continuation of the parent-child relationship poses a threat to the well-being of the child;

(C) termination is in the best interests of the child; and

(D) there is a satisfactory plan for the care and treatment of the child.

(3) Indicate whether at least one (1) of the factors listed in section 4.5(d)(1) through 4.5(d)(4) applies that would require

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the court to dismiss the petition to terminate the parent-child relationship under this chapter and specify each factor that would apply as the basis for the dismissal of the petition.

SECTION 20. IC 31-35-2-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 4.5. (a) This section applies if:**

(1) a court has made a finding under IC 31-34-21-5.6 that reasonable efforts for family preservation or reunification with respect to a child in need of services are not required; or

(2) a child in need of services:

(A) has been placed in:

(i) a foster family home, child caring institution, or group home licensed under IC 12-17.4; or

(ii) the home of a person related to the child (as defined in IC 12-7-2-162.5);

as directed by a court in a child in need of services proceeding under IC 31-34; and

(B) has been removed from a parent and has been under the supervision of a county office of family and children for not less than fifteen (15) months of the most recent twenty-two (22) months, excluding any period not exceeding sixty (60) days before the court has entered a finding and judgment under IC 31-34 that the child is a child in need of services.

(b) A person described in section 4(a) of this chapter shall:

(1) file a petition to terminate the parent-child relationship under section 4 of this chapter; and

(2) request that the petition be set for hearing.

(c) If a petition under subsection (b) is filed by the child's court appointed special advocate or guardian ad litem, the prosecuting attorney or the county office of family and children are entitled to be joined as a party to the petition upon application to the court.

(d) A party shall file a motion to dismiss the petition to terminate the parent-child relationship if any of the following circumstances apply:

(1) That the child is being cared for by a custodian who is a parent, stepparent, grandparent, or responsible adult who is the child's sibling, aunt, or uncle or a relative who is caring for the child as guardian.

(2) That the current case plan prepared by or under the supervision of the county office of family and children under IC 31-34-15 has documented a compelling reason, based on

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facts and circumstances stated in the petition or motion, for concluding that filing, or proceeding to a final determination of, a petition to terminate the parent-child relationship is not in the best interests of the child.

(3) That:

(A) IC 31-34-21-5.6 is not applicable to the child;

(B) the county office of family and children has not provided family services to the child, parent, or family of the child in accordance with a currently effective case plan prepared under IC 31-34-15 or a permanency plan or dispositional decree approved under IC 31-34, for the purpose of permitting and facilitating safe return of the child to the child's home; and

(C) the period for completion of the program of family services, as specified in the current case plan, permanency plan, or decree, has not expired.

(4) That:

(A) IC 31-34-21-5.6 is not applicable to the child;

(B) the county office of family and children has not provided family services to the child, parent, or family of the child, in accordance with applicable provisions of a currently effective case plan prepared under IC 31-34-15, or a permanency plan or dispositional decree approved under IC 31-34; and

(C) the services that the county office of family and children has not provided are substantial and material in relation to implementation of a plan to permit safe return of the child to the child's home.

The motion to dismiss shall specify which of the allegations described in subdivisions (1) through (4) apply to the motion. If the court finds that any of the allegations described in subdivisions (1) through (4) are true, as established by a preponderance of the evidence, the court shall dismiss the petition to terminate the parent-child relationship.

SECTION 21. IC 31-35-2-6, AS ADDED BY P.L.1-1997, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 6. **Except when a hearing is required after June 30, 1999, under section 4.5 of this chapter,** the person filing the petition may request the court to set the petition for a hearing. **Whenever a hearing is requested under this chapter, the court shall commence a hearing on the petition not more than ninety (90) days after a petition is filed under this chapter.**

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SECTION 22. IC 31-35-2-6.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: **Sec. 6.5. (a) This section applies to hearings under this chapter relating to a child in need of services.**

(b) At least five (5) days before a hearing on a petition or motion under this chapter:

(1) the person or entity who filed the petition to terminate the parent-child relationship under section 4 of this chapter; or

(2) the person or entity who filed a motion to dismiss the petition to terminate the parent-child relationship under section 4.5(d) of this chapter requesting that the court not terminate the parent-child relationship is filed under section 4.5(d) of this chapter, and a petition to terminate the parent-child relationship has not been filed;

shall send notice of the review to the persons listed in subsection (c).

(c) The following persons shall receive notice of a hearing on a petition or motion filed under this chapter:

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

(2) The child's foster parent.

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

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

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

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

(4) Any other person who:

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

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

(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.

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(6) Any other party to the child in need of services proceeding.

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

(e) A person described in subsection (c)(2) through (c)(5) 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 23. IC 31-35-2-8, AS ADDED BY P.L.1-1997, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 8. (a) **Except as provided in section 4.5(d) of this chapter,** if the court finds that the allegations in a petition described in section 4 of this chapter are true, the court shall terminate the parent-child relationship.

(b) If the court does not find that the allegations in the petition are true, the court shall dismiss the petition.

SECTION 24. IC 31-35-3-7, AS ADDED BY P.L.1-1997, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 7. **(a)** The person filing the petition may request that the court set the petition for a hearing.

(b) Whenever a hearing on the petition is requested under this chapter, the court shall commence the hearing not more than ninety (90) days after a petition is filed under this chapter.

SECTION 25. IC 31-35-6-1, AS ADDED BY P.L.1-1997, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 1. **(a)** If the juvenile or probate court terminates the parent-child relationship, the court may:

(1) refer the matter to the court having probate jurisdiction for adoption proceedings; or

(2) order any dispositional alternative specified by IC 31-34-20-1 or IC 31-37-19-1.

(b) If the juvenile court refers the matter to the court having probate jurisdiction under subsection (a)(1), the juvenile court shall review the child's case once every six (6) months until a petition for adoption is filed.

SECTION 26. IC 31-37-13-4, AS ADDED BY P.L.1-1997, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 4. (a) Except as provided in subsection (b), at the close of all the evidence and before judgment is entered, the court may continue the case for not more than twelve (12) months.

(b) If the child or the child's parent, guardian, or custodian requests that judgment be entered, the judgment shall be entered not later than

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thirty (30) days after the request is made.

(c) If the child is in a juvenile detention facility, the child shall be released not later than ~~seventy-two (72)~~ **forty-eight (48)** hours, excluding Saturdays, Sundays, and legal holidays, pending the entry of judgment. A child released from a juvenile detention facility pending the entry of judgment may be detained in a shelter care facility.

SECTION 27. IC 31-40-3-4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: **Sec. 4. An adoption incentive payment that is paid to Indiana under the federal Adoption and Safe Families Act (42 U.S.C. 473A(d)) must be used for services to facilitate the adoption of children who are in need of services and may be used for postadoption services.**

SECTION 28. IC 31-34-21-6 IS REPEALED [EFFECTIVE JULY 1, 1999].

SECTION 29. [EFFECTIVE JULY 1, 1998] **At a child's first periodic case review occurring after June 30, 1998, the county office of family and children is required to advise the child's parent, guardian, or custodian in writing that a petition to terminate the parent-child relationship must be filed with respect to the child after June 30, 1999 if the child has been removed from the child's parent and has been under the supervision of a county office of family and children for at least fifteen (15) months of the most recent twenty-two (22) months. However, if a child's parent, guardian, or custodian fails to appear at the first periodic case review occurring after June 30, 1998, the county office of family and children shall make reasonable efforts to send notice of the advisement to the last known address of the parent, guardian, or custodian.**

SECTION 30. [EFFECTIVE JULY 1, 1999] **(a) This SECTION applies to a child in Indiana who:**

(1) is in an out-of-home placement described in IC 31-35-2-4.5(a)(2)(A), as added by this act, on or before November 19, 1997; and

(2) has been removed from a parent and is under the supervision of a county office of family and children for at least fifteen (15) months of the most recent twenty-two (22) months under IC 31-35-2-4.5(a)(2)(B), as added by this act.

(b) As used in this SECTION, "division" refers to the division of family and children.

(c) As used in this SECTION, "county office" refers to a county office of family and children.

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(d) Except as provided in IC 31-35-2-4.5(d), as added by this act, a petition to terminate the parent-child relationship must be filed under IC 31-35-2-4 with respect to all children in Indiana to whom this section applies as follows:

(1) Not later than October 29, 1999, for at least one-third (1/3) of the children described in this SECTION.

(2) Not later than April 29, 2000, for at least two-thirds (2/3) of the children described in this SECTION.

(3) Not later than October 29, 2000, for all children described in this SECTION.

(e) The division shall prepare and maintain a record of children described in subsection (a). Each county office shall transmit to the division information, in a form and at the time prescribed by the division, sufficient to enable the division to prepare and maintain the record required by this SECTION.

(f) The division shall select, from the record described in subsection (e), the children for whom a petition must be filed not later than the dates specified in subsection (d). The division shall notify the following of the name of each child selected and the deadline for filing each petition:

(1) The director of a county office of family and children that has responsibility for the child.

(2) The prosecuting attorney for the county that has jurisdiction over the placement of the child.

(3) The child's guardian ad litem or court appointed special advocate, if any.

(g) In selecting the children from the record maintained under this SECTION, for the purposes of subsection (d)(1) and (d)(2), the division shall give priority to children:

(1) for whom a permanency plan approved under IC 31-34-21-7 provides for placement of the child for adoption; and

(2) who have been placed in an out-of-home placement as described in IC 31-35-2-4.5(a)(2), as added by this act, for the greatest length of time.

(h) This SECTION does not require the filing of a petition to terminate the parent-child relationship with respect to a child described in this SECTION if the child is not a child who is in an out-of-home placement as described in IC 31-35-2-4.5(a)(2), as added by this act, on the date the petition is or would be ready for filing.

(i) This SECTION expires December 31, 2000.

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SECTION 31. [EFFECTIVE JULY 1, 1999] **(a) This SECTION applies to a child in Indiana who:**

(1) is first placed in an out-of-home placement described in IC 31-35-2-4.5(a)(2), as added by this act, after November 19, 1997 and before July 1, 1999; and

(2) on July 1, 1999, has been removed from a parent and has been under the supervision of a county office of family and children for at least fifteen (15) months of the most recent twenty-two (22) months.

(b) Except as provided in IC 31-35-2-4.5(d), as added by this act, a petition to terminate the parent-child relationship must be filed under IC 31-35-2-4 with respect to all children in Indiana to whom this section applies, not later than July 29, 1999.

(c) This SECTION does not require the filing of a petition to terminate the parent-child relationship with respect to a child described in this SECTION if the child is not a child who is in an out-of-home placement as described in IC 31-35-2-4.5(a)(2), as added by this act, on the date the petition is or would be ready for filing.

(d) This SECTION expires December 31, 1999.

SECTION 32. [EFFECTIVE JULY 1, 1998] **(a) Notwithstanding IC 31-34-21-5, the panel or court shall determine the matters under IC 31-34-21-5(a).**

(b) This SECTION expires July 1, 1999.

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