

Adopted	Rejected
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## COMMITTEE REPORT

YES:	12
NO:	0

### MR. SPEAKER:

*Your Committee on Judiciary, to which was referred Senate Bill 02, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1 Page 1, line 4, delete "and 12" and insert "**12, and 13**".
- 2 Page 2, line 21, delete "or".
- 3 Page 2, line 24, delete "." and insert "**; or**
- 4 **(3) the child is the subject of a paternity proceeding.**".
- 5 Page 2, line 31, delete "or" and insert ",".
- 6 Page 2, line 32, before "." insert "**, or the paternity proceeding**".
- 7 Page 2, after line 32, begin a new paragraph and insert:
- 8 "SECTION 3. IC 31-30-1-13 IS ADDED TO THE INDIANA CODE
- 9 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY
- 10 1, 1999]: **Sec. 13. (a) Subject to subsection (b), a court having**
- 11 **jurisdiction under IC 31-14 of a child custody proceeding in a**
- 12 **paternity proceeding has concurrent original jurisdiction with**
- 13 **another juvenile court for the purpose of modifying custody of a**
- 14 **child who is under the jurisdiction of the other juvenile court**
- 15 **because:**
- 16 **(1) the child is the subject of a child in need of services**

1           **proceeding; or**  
 2           **(2) the child is the subject of a juvenile delinquency**  
 3           **proceeding that does not involve an act described under**  
 4           **IC 31-37-1-2.**

5           **(b) Whenever the court having child custody jurisdiction under**  
 6           **IC 31-14 in a paternity proceeding modifies child custody as**  
 7           **provided by this section, the modification is effective only when the**  
 8           **juvenile court with jurisdiction over the child in need of services**  
 9           **proceeding or juvenile delinquency proceeding:**

10           **(1) enters an order approving the child custody modification;**  
 11           **or**  
 12           **(2) terminates the child in need of services proceeding or the**  
 13           **juvenile delinquency proceeding.**

14           SECTION 4. IC 31-35-2-4 IS AMENDED TO READ AS  
 15           FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. (a) A petition to  
 16           terminate the parent-child relationship involving a delinquent child or  
 17           a child in need of services may be signed and filed with the juvenile or  
 18           probate court by any of the following:

19           (1) The attorney for the county office of family and children.  
 20           (2) The prosecuting attorney.  
 21           (3) The child's court appointed special advocate.  
 22           (4) The child's guardian ad litem.

23           (b) The petition must:  
 24           (1) be entitled "In the Matter of the Termination of the  
 25           Parent-Child Relationship of \_\_\_\_\_, a child, and  
 26           \_\_\_\_\_, the child's parent (or parents)"; and

27           (2) allege that:  
 28           (A) one (1) of the following exists:  
 29           (i) the child has been removed from the parent for at least  
 30           six (6) months under a dispositional decree;  
 31           (ii) a court has entered a finding under IC 31-34-21-5.6 that  
 32           reasonable efforts for family preservation or reunification  
 33           are not required, including a description of the court's  
 34           finding, the date of the finding, and the manner in which the  
 35           finding was made; or  
 36           (iii) after July 1, 1999, the child has been removed from the  
 37           parent and has been under the supervision of a county office  
 38           of family and children for at least fifteen (15) months of the

- 1 most recent twenty-two (22) months;
- 2 (B) there is a reasonable probability that:
- 3 (i) the conditions that resulted in the child's removal or the
- 4 reasons for placement outside the home of the parents will
- 5 not be remedied; or
- 6 (ii) the continuation of the parent-child relationship poses a
- 7 threat to the well-being of the child;
- 8 (C) termination is in the best interests of the child; and
- 9 (D) there is a satisfactory plan for the care and treatment of the
- 10 child.
- 11 (3) Indicate whether at least one (1) of the factors listed in section
- 12 4.5(d)(1) through ~~4.5(d)(4)~~ **4.5(d)(3) of this chapter** applies ~~that~~
- 13 ~~would require the court to dismiss the petition to terminate the~~
- 14 ~~parent-child relationship under this chapter~~ and specify each
- 15 factor that would apply as the basis for ~~the dismissal of the~~
- 16 ~~petition.~~ **filing a motion to dismiss the petition.**
- 17 SECTION 5. IC 31-35-2-4.5 IS AMENDED TO READ AS
- 18 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4.5. (a) This section
- 19 applies if:
- 20 (1) a court has made a finding under IC 31-34-21-5.6 that
- 21 reasonable efforts for family preservation or reunification with
- 22 respect to a child in need of services are not required; or
- 23 (2) a child in need of services:
- 24 (A) has been placed in:
- 25 (i) a foster family home, child caring institution, or group
- 26 home licensed under IC 12-17.4; or
- 27 (ii) the home of a person related to the child (as defined in
- 28 IC 12-7-2-162.5);
- 29 as directed by a court in a child in need of services proceeding
- 30 under IC 31-34; and
- 31 (B) has been removed from a parent and has been under the
- 32 supervision of a county office of family and children for not
- 33 less than fifteen (15) months of the most recent twenty-two
- 34 (22) months, excluding any period not exceeding sixty (60)
- 35 days before the court has entered a finding and judgment
- 36 under IC 31-34 that the child is a child in need of services.
- 37 (b) A person described in section 4(a) of this chapter shall:
- 38 (1) file a petition to terminate the parent-child relationship

1 under section 4 of this chapter; and

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

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

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

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

14 ~~(2)~~ That the current case plan prepared by or under the  
15 supervision of the county office of family and children under  
16 IC 31-34-15 has documented a compelling reason, based on facts  
17 and circumstances stated in the petition or motion, for concluding  
18 that filing, or proceeding to a final determination of, a petition to  
19 terminate the parent-child relationship is not in the best interests  
20 of the child. **A compelling reason may include the fact that the**  
21 **child is being cared for by a custodian who is a parent,**  
22 **stepparent, grandparent, or responsible adult who is the**  
23 **child's sibling, aunt, uncle, or a relative who is caring for the**  
24 **child as a guardian.**

25 ~~(3)~~ (2) That:

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

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

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

36 ~~(4)~~ (3) That:

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

38 (B) the county office of family and children has not provided

1 family services to the child, parent, or family of the child, in  
 2 accordance with applicable provisions of a currently effective  
 3 case plan prepared under IC 31-34-15, or a permanency plan  
 4 or dispositional decree approved under IC 31-34; and  
 5 (C) the services that the county office of family and children  
 6 has not provided are substantial and material in relation to  
 7 implementation of a plan to permit safe return of the child to  
 8 the child's home.

9 The motion to dismiss shall specify which of the allegations described  
 10 in subdivisions (1) through ~~(4)~~ (3) apply to the motion. If the court  
 11 finds that any of the allegations described in subdivisions (1) through  
 12 ~~(4)~~ (3) are true, as established by a preponderance of the evidence, the  
 13 court shall dismiss the petition to terminate the parent-child  
 14 relationship.

15 SECTION 6. IC 31-35-2-6.5 IS AMENDED TO READ AS  
 16 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 6.5. (a) This section  
 17 applies to hearings under this chapter relating to a child in need of  
 18 services.

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

- 21 (1) the person or entity who filed the petition to terminate the  
 22 parent-child relationship under section 4 of this chapter; or  
 23 (2) the person or entity who filed a motion to dismiss the petition  
 24 to terminate the parent-child relationship under section 4.5(d) of  
 25 this chapter; ~~requesting that the court not terminate the~~  
 26 ~~parent-child relationship is filed under section 4.5(d) of this~~  
 27 ~~chapter; and a petition to terminate the parent-child relationship~~  
 28 ~~has not been filed;~~

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

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

- 32 (1) The child's parent, guardian, or custodian.  
 33 (2) The child's foster parent.  
 34 (3) A prospective adoptive parent named in a petition for adoption  
 35 of the child filed under IC 31-19-2 if:  
 36 (A) each consent to adoption of the child that is required under  
 37 IC 31-19-9-1 has been executed in the form and manner  
 38 required by IC 31-19-9 and filed with the county office of

- 1 family and children;
- 2 (B) the court having jurisdiction in the adoption case has
- 3 determined under an applicable provision of IC 31-19-9 that
- 4 consent to adoption is not required from a parent, guardian, or
- 5 custodian; or
- 6 (C) a petition to terminate the parent-child relationship
- 7 between the child and any parent who has not executed a
- 8 written consent to adoption under IC 31-19-9-2, has been filed
- 9 under IC 31-35 and is pending.
- 10 (4) Any other person who:
- 11 (A) the county office of family and children has knowledge is
- 12 currently providing care for the child; and
- 13 (B) is not required to be licensed under IC 12-17.2 or
- 14 IC 12-17.4 to provide care for the child.
- 15 (5) Any other suitable relative or person who the county office of
- 16 family and children knows has had a significant or caretaking
- 17 relationship to the child.
- 18 (6) Any other party to the child in need of services proceeding.
- 19 (d) The court shall provide to a person described in subsection (c)
- 20 an opportunity to be heard and make recommendations to the court at
- 21 the hearing.
- 22 (e) A person described in subsection (c)(2) through (c)(5) does not
- 23 become a party to a proceeding under this chapter as the result of the
- 24 person's right to notice and the opportunity to be heard under this
- 25 section."
- 26 (Reference is to SB 2 as printed January 29, 1999.)

**and when so amended that said bill do pass.**

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**Representative Villalpando**