



February 26, 1999

## SENATE BILL No. 310

DIGEST OF SB 310 (Updated February 24, 1999 4:16 pm - DI 51)

**Citations Affected:** IC 31-9; IC 31-14; IC 31-19; IC 31-35; IC 35-46.

**Synopsis:** Adoption deception and adoption expenses. Prohibits payments of more than \$2,500 for certain adoption related expenses of a birth mother unless a greater amount is ordered by the court.. Requires adoption related payments to be disclosed to the court supervising the adoption. Limits payments for certain living expenses of a birth mother to expenses that are incurred during the second or third trimester of a birth mother's pregnancy and six weeks after childbirth. Provides that a birth mother, or a woman who holds herself out to be a birth mother, who benefits from adoption related expenses incurred under certain false pretenses commits adoption deception, a Class A misdemeanor. Allows a court to order a person who commits adoption deception to make restitution to a prospective adoptive parent, attorney, or licensed child placing agency that incurs an expense as a result of the offense. Requires an attorney or licensed child placing  
(Continued next page)

**Effective:** July 1, 1999.

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**Clark, Lanane**

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January 7, 1999, read first time and referred to Committee on Judiciary.  
February 25, 1999, amended, reported favorably — Do Pass.

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SB 310—LS 6932/DI 76+



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agency to inform a birth mother of the penalties for committing adoption deception before the attorney or agency transfers a payment for adoption related expenses in relation to the birth mother. Adds an attorney representing a birth mother to the list of persons allowed to serve actual notice of a potential adoption upon a putative father before the birth of a child. Provides that a putative father's implied consent to an adoption is also an implied consent to the termination of the parent-child relationship. Provides that a putative father whose consent to an adoption has been implied is not barred from establishing paternity under certain conditions. Provides that consent to the termination of the parent-child relationship is not required in certain circumstances. Provides for the following requirements in paternity actions in which an adoption is pending: (1) Requires the court to conduct an initial hearing not more than 30 days after the filing of the paternity petition or the birth of the child, whichever occurs later. (2) Requires the court to order blood or genetic testing at the initial hearing and requires the court to order the state department of health to pay for the testing under certain circumstances. (3) Requires the court to conduct a final hearing to determine paternity not later than 90 days after the initial hearing. (4) Requires the court to issue its ruling in the paternity action not more than 14 days after the final hearing. Provides that a licensed child placing agency or an attorney in an adoption shall submit to the court an affidavit setting forth the circumstances surrounding service of prebirth actual notice to a putative father, regardless of who served the notice. Requires a court to enter a default judgment against and terminate the parental rights of a parent who fails to appear at the termination hearing after being located and served with notice of the hearing. Repeals certain provisions governing unreasonable delay in paternity actions when an adoption is pending. Makes conforming amendments.

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February 26, 1999

First Regular Session 111th General Assembly (1999)

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 1998 General Assembly.

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## SENATE BILL No. 310

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A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

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

- 1 SECTION 1. IC 31-9-2-51 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 51. "Hard to place  
3 child" or "hard to place children", for purposes of ~~IC 31-19-2-3~~ and  
4 ~~IC 31-19-2-7~~ **IC 31-19**, means a child who is or children who are  
5 disadvantaged:  
6 (1) because of:  
7 (A) ethnic background;  
8 (B) race;  
9 (C) color;  
10 (D) language;  
11 (E) physical, mental, or medical disability; or  
12 (F) age; or  
13 (2) because the child or children are members of a sibling group  
14 that should be placed in the same home.  
15 SECTION 2. IC 31-9-2-100 IS AMENDED TO READ AS

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1 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 100. "Putative father",  
 2 for purposes of ~~IC 31-19-4 and IC 31-19-5~~ **IC 31-19 and IC 31-35-1**,  
 3 means a male of any age who is alleged to be or claims that he may be  
 4 a child's father but who:

5 (1) is not presumed to be the child's father under IC 31-14-7-1(1)  
 6 or IC 31-14-7-1(2); and

7 (2) has not established paternity of the child:

8 (A) in a court proceeding; or

9 (B) by executing a paternity affidavit under IC 16-37-2-2.1;  
 10 before the filing of an adoption petition.

11 SECTION 3. IC 31-14-21-9 IS AMENDED TO READ AS  
 12 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 9. (a) If a court  
 13 presiding over a paternity action under this article knows of:

14 (1) a pending adoption of a child who is the subject of the  
 15 paternity action; and

16 (2) the court in which the adoption is pending;

17 the court having jurisdiction over the paternity action shall establish a  
 18 child's paternity within ~~a reasonable~~ **the period prescribed by this**  
 19 **chapter.**

20 (b) **The court shall conduct an initial hearing not more than**  
 21 **thirty (30) days after:**

22 (1) **the filing of the paternity petition; or**

23 (2) **the birth of the child;**

24 **whichever occurs later.**

25 SECTION 4. IC 31-14-21-9.1 IS ADDED TO THE INDIANA  
 26 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 27 [EFFECTIVE JULY 1, 1999]: Sec. 9.1. (a) **At the initial hearing held**  
 28 **under section 9 of this chapter, the court shall order all the parties**  
 29 **to the paternity action to undergo blood or genetic testing.**

30 (b) **If the alleged father is unable to pay for the initial costs of**  
 31 **the testing, the court shall order that the tests be paid by the state**  
 32 **department of health from putative father registry fees collected**  
 33 **under IC 31-19-2-8(2). The state department of health may recover**  
 34 **costs from an individual found to be the biological father of the**  
 35 **child in the action.**

36 SECTION 5. IC 31-14-21-9.2 IS ADDED TO THE INDIANA  
 37 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 38 [EFFECTIVE JULY 1, 1999]: Sec. 9.2. **Not later than ninety (90)**  
 39 **days after the initial hearing held under section 9 of this chapter,**  
 40 **the court shall conduct a final hearing to determine paternity. Not**  
 41 **more than fourteen (14) days after the final hearing, the court shall**  
 42 **issue its ruling in the paternity action.**



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1 SECTION 6. IC 31-19-2-8 IS AMENDED TO READ AS  
 2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 8. Unless the petitioner  
 3 for adoption seeks under section 1 of this chapter to adopt a person who  
 4 is at least eighteen (18) years of age, the petitioner for adoption must  
 5 attach to the petition for adoption:

6 (1) an adoption history fee of twenty dollars (\$20) payable to the  
 7 state department of health; and

8 (2) a putative father registry fee of fifty dollars (\$50) payable to  
 9 the state department of health for:

10 (A) administering the putative father registry established by  
 11 IC 31-19-5; and

12 (B) **paying for blood or genetic testing in a paternity action**  
 13 **in which an adoption is pending in accordance with**  
 14 **IC 31-14-21-9.1.**

15 SECTION 7. IC 31-19-3-1 IS AMENDED TO READ AS  
 16 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. Before the birth of  
 17 a child:

18 (1) a licensed child placing agency; or

19 (2) an attorney representing prospective adoptive parents of the  
 20 child; or

21 (3) **an attorney representing the mother of the child;**

22 may serve the putative father of the child or cause the putative father  
 23 to be served with actual notice that the mother of the child is  
 24 considering an adoptive placement for the child.

25 SECTION 8. IC 31-19-3-3 IS AMENDED TO READ AS  
 26 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. (a) Upon the filing  
 27 of a petition for adoption:

28 (1) the licensed child placing agency sponsoring the adoption; or

29 (2) the attorney representing the prospective adoptive parents;

30 ~~who gave actual notice or caused actual notice to be given to the~~  
 31 ~~putative father of the child~~ shall submit to the court an affidavit setting  
 32 forth the circumstances surrounding the service of actual notice,  
 33 including the time, **if known**, date, and manner in which the actual  
 34 notice was provided.

35 (b) **If notice is served upon the putative father under section 1(3)**  
 36 **of this chapter:**

37 (1) **the licensed child placing agency sponsoring the adoption;**  
 38 **or**

39 (2) **the attorney representing the prospective adoptive**  
 40 **parents;**

41 **shall submit to the court an affidavit prepared by the attorney**  
 42 **representing the mother of the child. An affidavit filed under this**

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1 **subsection must contain the same information as an affidavit filed**  
 2 **under subsection (a).**

3 SECTION 9. IC 31-19-3-4 IS AMENDED TO READ AS  
 4 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. Notice of the  
 5 potential adoption under this chapter must be provided to the putative  
 6 father of the child in substantially the following form:

7 " \_\_\_\_\_ (putative father's name), who has been named as the  
 8 father of the unborn child of \_\_\_\_\_ (birth mother's name), or who  
 9 claims to be the father of the unborn child, is notified that \_\_\_\_\_  
 10 (birth mother's name) has expressed an intention to secure an adoptive  
 11 placement for the child.

12 If \_\_\_\_\_ (putative father's name) seeks to contest the  
 13 adoption of the unborn child, the putative father must file a paternity  
 14 action to establish his paternity in relation to the unborn child not later  
 15 than thirty (30) days after the receipt of this notice.

16 If \_\_\_\_\_ (putative father's name) does not file a paternity  
 17 action not more than thirty (30) days after receiving this notice, or  
 18 having filed a paternity action, is unable to establish paternity in  
 19 relation to the child ~~within a reasonable period determined under~~  
 20 ~~IC 31-14-21-9 through IC 31-14-21-11~~ **under IC 31-14** or the laws  
 21 applicable to a court of another state when the court obtains jurisdiction  
 22 over the paternity action, the putative father's consent to the adoption  
 23 **or the voluntary termination of the putative father's parent-child**  
 24 **relationship under IC 31-35-1, or both,** shall be irrevocably implied  
 25 and the putative father loses the right to contest ~~both~~ the adoption, ~~and~~  
 26 the validity of his implied consent to the adoption, **the termination of**  
 27 **the parent-child relationship, and the validity of his implied**  
 28 **consent to the termination of the parent-child relationship.** In  
 29 addition, the putative father loses the right to establish paternity of the  
 30 child under IC 31-14 or in a court of another state when the court  
 31 would otherwise be competent to obtain jurisdiction over the paternity  
 32 action **except as provided in IC 31-19-9-17(b).**

33 Nothing \_\_\_\_\_ (mother's name) or anyone else says to  
 34 \_\_\_\_\_ (putative father's name) relieves \_\_\_\_\_ (putative  
 35 father's name) of his obligations under this notice.

36 Under Indiana law, a putative father is a person who is named as or  
 37 claims that he may be the father of a child born out of wedlock but who  
 38 has not yet been legally proven to be the child's father.

39 For purposes of this notice, \_\_\_\_\_ (putative father's name)  
 40 is a putative father under the laws in Indiana regarding adoption."

41 SECTION 10. IC 31-19-3-8 IS ADDED TO THE INDIANA CODE  
 42 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY

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1 1, 1999]: **Sec. 8. The Indiana Rules of Trial Procedure do not apply**  
 2 **to the giving of notice under this chapter.**

3 SECTION 11. IC 31-19-4-1 IS AMENDED TO READ AS  
 4 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. **Except as provided**  
 5 **by section 11 of this chapter, if:**

6 (1) on or before the date the mother of a child executes a consent  
 7 to the child's adoption, the mother has provided an attorney or  
 8 agency arranging the adoption with the name and address of the  
 9 putative father; and

10 (2) the putative father of the child has:

11 (A) failed or refused to consent to the adoption of the child; or

12 (B) not had the parent-child relationship terminated under  
 13 IC 31-35 (or IC 31-6-5 before its repeal);

14 the putative father shall be given notice of the adoption proceedings  
 15 under Rule 4.1 of the Indiana Rules of Trial Procedure.

16 SECTION 12. IC 31-19-4-2 IS AMENDED TO READ AS  
 17 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. **Except as provided**  
 18 **by section 11 of this chapter, if:**

19 (1) on or before the date the mother of a child executes a consent  
 20 to the child's adoption, the mother has not provided an attorney or  
 21 agency arranging the adoption with the name or address, or both,  
 22 of the putative father of the child; and

23 (2) the putative father of the child has:

24 (A) failed or refused to consent to the adoption of the child or  
 25 has not had the parent-child relationship terminated under  
 26 IC 31-35 (or IC 31-6-5 before its repeal); and

27 (B) registered with the putative father registry under  
 28 IC 31-19-5 (or IC 31-6-5 before its repeal) within the period  
 29 under IC 31-19-5-12;

30 the putative father shall be given notice of the adoption proceedings  
 31 under Rule 4.1 of the Indiana Rules of Trial Procedure.

32 SECTION 13. IC 31-19-4-4 IS AMENDED TO READ AS  
 33 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. Notice of the  
 34 adoption proceeding required under section 3 of this chapter shall be  
 35 given to an unnamed putative father in substantially the following  
 36 form:

37 "NOTICE TO UNNAMED FATHER

38 The unnamed putative father of the child born to \_\_\_\_\_ (mother's  
 39 name) on \_\_\_\_\_ (date), or the person who claims to be the father of the  
 40 child born to \_\_\_\_\_ (mother's name) on \_\_\_\_\_ (date), is notified that  
 41 a petition for adoption of the child was filed in the office of the clerk  
 42 of \_\_\_\_\_ court, \_\_\_\_\_ (address of court).

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1 If the unnamed putative father seeks to contest the adoption of the  
 2 child, the unnamed putative father must file a motion to contest the  
 3 adoption in accordance with IC 31-19-10-1 in the above named court  
 4 or a paternity action under IC 31-14 within thirty (30) days after the  
 5 date of service of this notice. This notice may be served by publication.

6 If the unnamed putative father:

7 (1) does not file:

8 (A) a motion to contest the adoption; or

9 (B) a paternity action under IC 31-14;

10 within thirty (30) days after service of this notice; or

11 (2) after filing a paternity action under IC 31-14 fails to establish  
 12 paternity; ~~within a reasonable period as determined by the~~  
 13 ~~paternity court under IC 31-14-21-9 through IC 31-14-21-11;~~

14 the above named court shall hear and determine the petition for  
 15 adoption. The unnamed putative father's consent is irrevocably implied  
 16 and the unnamed putative father loses the right to contest the adoption  
 17 or the validity of the unnamed putative father's implied consent to the  
 18 adoption. The unnamed putative father loses the right to establish  
 19 paternity of the child under IC 31-14.

20 Nothing \_\_\_\_\_ (mother's name) or any one else says to the  
 21 unnamed putative father of the child relieves the unnamed putative  
 22 father of his obligations under this notice.

23 Under Indiana law, a putative father is a person who is named as or  
 24 claims that he may be the father of a child born out of wedlock but who  
 25 has not yet been legally proven to be the child's father."

26 SECTION 14. IC 31-19-4-5 IS AMENDED TO READ AS  
 27 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. Notice of the  
 28 adoption proceeding shall be given to:

29 (1) the putative father who is entitled to notice under section 1 or  
 30 2 of this chapter; or

31 (2) a named putative father under section 3 of this chapter;

32 in substantially the following form:

33 "NOTICE TO NAMED FATHER

34 \_\_\_\_\_ (putative father's name), who has been named the  
 35 father of the child born to \_\_\_\_\_ (mother's name) on \_\_\_\_\_  
 36 (date), or who claims to be the father of the child born to \_\_\_\_\_  
 37 (mother's name) on \_\_\_\_\_ (date), is notified that a petition for  
 38 adoption of the child was filed in the office of the clerk of \_\_\_\_\_  
 39 court, \_\_\_\_\_ (address of the court).

40 If \_\_\_\_\_ (putative father's name) seeks to contest the adoption  
 41 of the child, he must file a motion to contest the adoption in accordance  
 42 with IC 31-19-10-1 in the above named court, or a paternity action



1 under IC 31-14 not later than thirty (30) days after the date of service  
2 of this notice.

3 If \_\_\_\_\_ (putative father's name):

4 (1) does not file:

5 (A) a motion to contest the adoption; or

6 (B) a paternity action under IC 31-14;

7 within thirty (30) days after service of this notice; or

8 (2) after filing a paternity action under IC 31-14 fails to establish  
9 paternity; ~~within a reasonable period as determined by the~~  
10 ~~paternity court under IC 31-14-21-9 through IC 31-14-21-11;~~

11 the above named court will hear and determine the petition for  
12 adoption. His consent will be irrevocably implied and he will lose his  
13 right to contest either the adoption or the validity of his implied consent  
14 to the adoption. He will lose his right to establish his paternity of the  
15 child under IC 31-14.

16 Nothing \_\_\_\_\_ (mother's name) or anyone else says to  
17 \_\_\_\_\_ (putative father's name) relieves \_\_\_\_\_ (putative  
18 father's name) of his obligations under this notice.

19 Under Indiana law, a putative father is a person who is named as or  
20 claims that he may be the father of a child born out of wedlock but who  
21 has not yet been legally proven to be the child's father. For purposes of  
22 this notice, \_\_\_\_\_ (putative father's name) is a putative father  
23 under the laws in Indiana regarding adoption."

24 SECTION 15. IC 31-19-4-13 IS ADDED TO THE INDIANA  
25 CODE AS A NEW SECTION TO READ AS FOLLOWS  
26 [EFFECTIVE JULY 1, 1999]: **Sec. 13. Only the rules of the Indiana**  
27 **Rules of Trial Procedure specified in this chapter apply to the**  
28 **giving of notice under this chapter.**

29 SECTION 16. IC 31-19-9-12 IS AMENDED TO READ AS  
30 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 12. A putative father's  
31 consent to adoption is irrevocably implied without further court action  
32 if the putative father:

33 (1) fails to file:

34 (A) a motion to contest the adoption in accordance with  
35 IC 31-19-10; and

36 (B) a paternity action under IC 31-14;

37 within thirty (30) days after service of notice under IC 31-19-4;

38 (2) having filed a motion to contest the adoption in accordance  
39 with IC 31-19-10, fails to appear at the hearing set to contest the  
40 adoption;

41 (3) having filed a paternity action under IC 31-14, fails to  
42 establish paternity in the action; ~~within a reasonable period~~



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1 ~~determined under IC 31-14-21-9 through IC 31-14-21-11~~; or  
 2 (4) is required to but fails to register with the putative father  
 3 registry established by IC 31-19-5 within the period under  
 4 IC 31-19-5-12.

5 SECTION 17. IC 31-19-9-15 IS AMENDED TO READ AS  
 6 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 15. (a) The putative  
 7 father's consent to adoption of the child is irrevocably implied without  
 8 further court action if the father:

9 (1) fails to file a paternity action:

10 (A) under IC 31-14; or

11 (B) in a court located in another state that is competent to  
 12 obtain jurisdiction over the paternity action;

13 not more than thirty (30) days after receiving actual notice under  
 14 IC 31-19-3 of the mother's intent to proceed with an adoptive  
 15 placement of the child, regardless of whether the child is born  
 16 before or after the expiration of the thirty (30) day period; or

17 (2) files a paternity action:

18 (A) under IC 31-14; or

19 (B) in a court located in another state that is competent to  
 20 obtain jurisdiction over the paternity action;

21 during the thirty (30) day period prescribed by subdivision (1) and  
 22 fails to establish paternity in the paternity proceeding ~~within a~~  
 23 ~~reasonable period determined under IC 31-14-21-9 through~~  
 24 ~~IC 31-14-21-11~~ **under IC 31-14** or the laws applicable to a court  
 25 of another state when the court obtains jurisdiction over the  
 26 paternity action.

27 **(b) This section does not prohibit a putative father who meets**  
 28 **the requirements of section 17(b) of this chapter from establishing**  
 29 **paternity of the child.**

30 SECTION 18. IC 31-19-9-17 IS AMENDED TO READ AS  
 31 FOLLOWS [JULY 1, 1999] [EFFECTIVE JULY 1, 1999]: Sec. 17. (a)  
 32 A putative father whose consent to an adoption is implied under section  
 33 15 of this chapter is not entitled to establish paternity of the child:

34 (1) in a court proceeding under IC 31-14; or

35 (2) by executing a paternity affidavit under IC 16-37-2-2.1.

36 **(b) Notwithstanding subsection (a), a putative father who is**  
 37 **barred from establishing paternity of the child under subsection (a)**  
 38 **may establish paternity of the child in a court proceeding under**  
 39 **IC 31-14 if:**

40 **(1) the putative father submits, together with the petition to**  
 41 **establish paternity, an affidavit prepared by the:**

42 **(A) licensed child placing agency; or**

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- 1                   **(B) attorney;**  
 2                   **that served notice or caused notice to be served upon the**  
 3                   **putative father under IC 31-19-3-1 stating that neither a**  
 4                   **petition for adoption nor a placement of the child in a**  
 5                   **proposed adoptive home is pending; and**  
 6                   **(2) the court finds on the record, based on all the information**  
 7                   **available to the court, including an affidavit described under**  
 8                   **subdivision (1), that neither a:**  
 9                   **(A) petition for adoption; nor**  
 10                   **(B) placement of the child in a prospective adoptive home;**  
 11                   **is pending.**

12                   SECTION 19. IC 31-35-1-4 IS AMENDED TO READ AS  
 13                   FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. (a) If requested by  
 14                   the parents:

- 15                   (1) the county office of family and children; or  
 16                   (2) a licensed child placing agency;  
 17                   may sign and file a verified petition with the juvenile or probate court  
 18                   for the voluntary termination of the parent-child relationship.

19                   (b) The petition must:

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

23                   (2) allege that:

- 24                   (A) the parents are the child's natural or adoptive parents;  
 25                   (B) the parents, including the alleged or adjudicated father if  
 26                   the child was born out of wedlock:  
 27                   (i) knowingly and voluntarily consent to the termination of  
 28                   the parent-child relationship; **or**  
 29                   (ii) **are not required to consent to the termination of the**  
 30                   **parent-child relationship under section 6(b) of this**  
 31                   **chapter;**  
 32                   (C) termination is in the child's best interest; and  
 33                   (D) the petitioner has developed a satisfactory plan of care and  
 34                   treatment for the child.

35                   SECTION 20. IC 31-35-1-4.5 IS ADDED TO THE INDIANA  
 36                   CODE AS A NEW SECTION TO READ AS FOLLOWS  
 37                   [EFFECTIVE JULY 1, 1999]: **Sec. 4.5. The putative father's consent**  
 38                   **to the termination of the parent-child relationship is irrevocably**  
 39                   **implied without further court action if the father:**

- 40                   (1) **fails to file a paternity action under IC 31-14 or in a court**  
 41                   **located in another state that is competent to obtain**  
 42                   **jurisdiction over the paternity action, not more than thirty**

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- 1           **(30) days after receiving actual notice under IC 31-19-3 of the**
- 2           **mother's intent to proceed with an adoptive placement of the**
- 3           **child, regardless of whether:**
- 4               **(A) the child is born before or after the expiration of the**
- 5               **thirty (30) day period; or**
- 6               **(B) a petition for adoption or for the termination of the**
- 7               **parent-child relationship is filed; or**
- 8           **(2) files a paternity action:**
- 9               **(A) under IC 31-14; or**
- 10              **(B) in a court located in another state that is competent to**
- 11              **obtain jurisdiction over the paternity action;**
- 12           **during the thirty (30) day period prescribed by subdivision (1)**
- 13           **and fails to establish paternity in the paternity proceeding**
- 14           **within a reasonable period determined under IC 31-14-21-9**
- 15           **through IC 31-14-21-11 or the laws applicable to a court of**
- 16           **another state when the court obtains jurisdiction over the**
- 17           **paternity action.**

18           SECTION 21. IC 31-35-1-6 IS AMENDED TO READ AS  
 19           FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 6. **(a) Except as**  
 20           **provided in subsection (b),** the parents must give their consent in open  
 21           court unless the court makes findings of fact upon the record that:

- 22               (1) the parents gave their consent in writing before a person
- 23               authorized by law to take acknowledgments;
- 24               (2) the parents were notified of their constitutional and other legal
- 25               rights and of the consequences of their actions under section 12
- 26               of this chapter. and
- 27               (3) the parents failed to appear.

28           **(b) The consent of a parent to the termination of the**  
 29           **parent-child relationship under this chapter is not required if:**

- 30               **(1) consent to the termination of the parent-child relationship**
- 31               **is implied under section 4.5 of this chapter, if the parent is the**
- 32               **putative father; or**
- 33               **(2) the parent's consent to the adoption of the child would not**
- 34               **be required under:**
- 35                   **(A) IC 31-19-9-9; or**
- 36                   **(B) IC 31-19-9-10.**

37           SECTION 22. IC 31-35-1-11 IS AMENDED TO READ AS  
 38           FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 11. If the court makes  
 39           findings of fact upon the record that:

- 40               (1) one (1) parent has made a valid consent to the termination of
- 41               the parent-child relationship;
- 42               (2) the other parent:

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1           **(A) is required under this chapter to consent to the**  
 2           **termination of the parent-child relationship;**  
 3           **(B) cannot be located, after a good faith effort has been made**  
 4           **to do so, or has been located but fails to appear at the**  
 5           **termination hearing; and**  
 6           ~~(3)~~ **the other parent (C) has been served with notice of the**  
 7           ~~proceedings~~ **hearing** in the most effective means under the  
 8           circumstances; and  
 9           ~~(4)~~ **(3) the investigation that may be required by section 7 of this**  
 10           chapter has been completed and entered on the record;  
 11           the court may enter a default judgment against the unavailable parent  
 12           and terminate as to both parents.

13           SECTION 23. IC 35-46-1-9 IS AMENDED TO READ AS  
 14           FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 9. (a) Except as  
 15           provided in subsection (b), a person who, with respect to an adoption,  
 16           transfers or receives any property in connection with the waiver of  
 17           parental rights, the termination of parental rights, the consent to  
 18           adoption, or the petition for adoption commits profiting from an  
 19           adoption, a Class D felony.

20           (b) This section does not apply to the transfer or receipt of:  
 21           (1) reasonable attorney's fees;  
 22           (2) hospital and medical expenses concerning childbirth and  
 23           pregnancy incurred by the adopted person's birth mother;  
 24           (3) reasonable charges and fees levied by a child placing agency  
 25           licensed under IC 12-17.4 or by a county office of family and  
 26           children;  
 27           (4) reasonable expenses for psychological counseling relating to  
 28           adoption incurred by the adopted person's birth parents;  
 29           (5) reasonable costs of housing, utilities, and phone service for the  
 30           adopted person's birth mother during the **second or third**  
 31           **trimester of** pregnancy and not more than six (6) weeks after  
 32           childbirth;  
 33           (6) reasonable costs of maternity clothing for the adopted person's  
 34           birth mother;  
 35           (7) reasonable travel expenses incurred by the adopted person's  
 36           birth mother that relate to the pregnancy or adoption;  
 37           (8) any additional itemized necessary living expenses for the  
 38           adopted person's birth mother during the **second or third**  
 39           **trimester of** pregnancy **and not more than six (6) weeks after**  
 40           **childbirth**, not listed in subdivisions (5) through (7) in an amount  
 41           not to exceed one thousand dollars (\$1,000); ~~and that are~~  
 42           disclosed to the court supervising the adoption; or

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1 (9) other charges and fees approved by the court supervising the  
 2 adoption, including reimbursement of not more than actual wages  
 3 lost as a result of the inability of the adopted person's birth mother  
 4 to work at her regular, existing employment due to a medical  
 5 condition, excluding a psychological condition, if:

6 (A) the attending physician of the adopted person's birth  
 7 mother has ordered or recommended that the adopted person's  
 8 birth mother discontinue her employment; and

9 (B) the medical condition and its direct relationship to the  
 10 pregnancy of the adopted person's birth mother are  
 11 documented by her attending physician.

12 In determining the amount of reimbursable lost wages, if any, that are  
 13 reasonably payable to the adopted person's birth mother under  
 14 subdivision (9), the court shall offset against the reimbursable lost  
 15 wages any amounts paid to the adopted person's birth mother under  
 16 subdivisions (5) and (8) and any unemployment compensation received  
 17 by or owed to the adopted person's birth mother.

18 **(c) Except as provided in this subsection, payments made under**  
 19 **subsection (b)(5) through (b)(9) may not exceed three thousand**  
 20 **dollars (\$3,000) and must be disclosed to the court supervising the**  
 21 **adoption. The amounts paid under subsection (b)(5) through (b)(9)**  
 22 **may exceed three thousand dollars (\$3,000) to the extent that a**  
 23 **court in Indiana with jurisdiction over the child who is the subject**  
 24 **of the adoption approves the expenses after determining that:**

25 (1) the expenses are not being offered as an inducement to  
 26 proceed with an adoption; and

27 (2) failure to make the payments may seriously jeopardize the  
 28 health of either the child or the mother of the child and the  
 29 direct relationship is documented by the attending physician.

30 **(d) An attorney or licensed child placing agency shall inform a**  
 31 **birth mother of the penalties for committing adoption deception**  
 32 **under section 9.5 of this chapter before the attorney or agency**  
 33 **transfers a payment for adoption related expenses under**  
 34 **subsection (b) in relation to the birth mother.**

35 **(e) The limitations in this section apply regardless of the state or**  
 36 **country in which the adoption is finalized.**

37 SECTION 24. IC 35-46-1-9.5 IS ADDED TO THE INDIANA  
 38 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 39 [EFFECTIVE JULY 1, 1999]: **Sec. 9.5. A person who is a birth**  
 40 **mother, or a woman who holds herself out to be a birth mother,**  
 41 **and who knowingly or intentionally benefits from adoption related**  
 42 **expenses paid:**



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1           **(1) when the person knows or should have known that the**  
2           **person is not pregnant; or**  
3           **(2) by or on behalf of a prospective adoptive parent who is**  
4           **unaware that at the same time another prospective adoptive**  
5           **parent is also incurring adoption related expenses in an effort**  
6           **to adopt the same child;**  
7           **commits adoption deception, a Class A misdemeanor. In addition**  
8           **to any other penalty imposed under this section, a court may order**  
9           **the person who commits adoption deception to make restitution to**  
10           **a prospective adoptive parent, attorney, or licensed child placing**  
11           **agency that incurs an expense as a result of the offense.**  
12           SECTION 25. THE FOLLOWING ARE REPEALED [EFFECTIVE  
13           JULY 1, 1999]: IC 31-14-21-10; IC 31-14-21-11; IC 31-14-21-12.

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SENATE MOTION

Mr. President: I move that Senator Lanane be added as second author of Senate Bill 310.

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## COMMITTEE REPORT

Mr. President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 310, 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 1, after the enacting clause, begin a new paragraph and insert:

"SECTION 1. IC 31-9-2-51 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 51. "Hard to place child" or "hard to place children", for purposes of ~~IC 31-19-2-3~~ and ~~IC 31-19-2-7~~ **IC 31-19**, means a child who is or children who are disadvantaged:

- (1) because of:
  - (A) ethnic background;
  - (B) race;
  - (C) color;
  - (D) language;
  - (E) physical, mental, or medical disability; or
  - (F) age; or
- (2) because the child or children are members of a sibling group that should be placed in the same home.

SECTION 2. IC 31-9-2-100 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 100. "Putative father", for purposes of ~~IC 31-19-4~~ and ~~IC 31-19-5~~ **IC 31-19** and **IC 31-35-1**, means a male of any age who is alleged to be or claims that he may be a child's father but who:

- (1) is not presumed to be the child's father under IC 31-14-7-1(1) or IC 31-14-7-1(2); and
- (2) has not established paternity of the child:
  - (A) in a court proceeding; or
  - (B) by executing a paternity affidavit under IC 16-37-2-2.1; before the filing of an adoption petition.

SECTION 3. IC 31-14-21-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 9. (a) If a court presiding over a paternity action under this article knows of:

- (1) a pending adoption of a child who is the subject of the paternity action; and
- (2) the court in which the adoption is pending;

the court having jurisdiction over the paternity action shall establish a child's paternity within a ~~reasonable~~ **the period prescribed by this chapter.**

**(b) The court shall conduct an initial hearing not more than thirty (30) days after:**

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- (1) the filing of the paternity petition; or
- (2) the birth of the child;

whichever occurs later.

SECTION 4. IC 31-14-21-9.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 9.1. (a) At the initial hearing held under section 9 of this chapter, the court shall order all the parties to the paternity action to undergo blood or genetic testing.**

**(b) If the alleged father is unable to pay for the initial costs of the testing, the court shall order that the tests be paid by the state department of health from putative father registry fees collected under IC 31-19-2-8(2). The state department of health may recover costs from an individual found to be the biological father of the child in the action.**

SECTION 5. IC 31-14-21-9.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 9.2. Not later than ninety (90) days after the initial hearing held under section 9 of this chapter, the court shall conduct a final hearing to determine paternity. Not more than fourteen (14) days after the final hearing, the court shall issue its ruling in the paternity action.**

SECTION 6. IC 31-19-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 8. Unless the petitioner for adoption seeks under section 1 of this chapter to adopt a person who is at least eighteen (18) years of age, the petitioner for adoption must attach to the petition for adoption:**

- (1) an adoption history fee of twenty dollars (\$20) payable to the state department of health; and
- (2) a putative father registry fee of fifty dollars (\$50) payable to the state department of health for:

**(A) administering the putative father registry established by IC 31-19-5; and**

**(B) paying for blood or genetic testing in a paternity action in which an adoption is pending in accordance with IC 31-14-21-9.1.**

SECTION 7. IC 31-19-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 1. Before the birth of a child:**

- (1) a licensed child placing agency; or
- (2) an attorney representing prospective adoptive parents of the child; or
- (3) an attorney representing the mother of the child;**



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may serve the putative father of the child or cause the putative father to be served with actual notice that the mother of the child is considering an adoptive placement for the child.

SECTION 8. IC 31-19-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. (a) Upon the filing of a petition for adoption:

- (1) the licensed child placing agency sponsoring the adoption; or
- (2) the attorney representing the prospective adoptive parents;

~~who gave actual notice or caused actual notice to be given to the putative father of the child~~ shall submit to the court an affidavit setting forth the circumstances surrounding the service of actual notice, including the time, **if known**, date, and manner in which the actual notice was provided.

**(b) If notice is served upon the putative father under section 1(3) of this chapter:**

- (1) the licensed child placing agency sponsoring the adoption; or**
- (2) the attorney representing the prospective adoptive parents;**

**shall submit to the court an affidavit prepared by the attorney representing the mother of the child. An affidavit filed under this subsection must contain the same information as an affidavit filed under subsection (a).**

SECTION 9. IC 31-19-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. Notice of the potential adoption under this chapter must be provided to the putative father of the child in substantially the following form:

" \_\_\_\_\_ (putative father's name), who has been named as the father of the unborn child of \_\_\_\_\_ (birth mother's name), or who claims to be the father of the unborn child, is notified that \_\_\_\_\_ (birth mother's name) has expressed an intention to secure an adoptive placement for the child.

If \_\_\_\_\_ (putative father's name) seeks to contest the adoption of the unborn child, the putative father must file a paternity action to establish his paternity in relation to the unborn child not later than thirty (30) days after the receipt of this notice.

If \_\_\_\_\_ (putative father's name) does not file a paternity action not more than thirty (30) days after receiving this notice, or having filed a paternity action, is unable to establish paternity in relation to the child ~~within a reasonable period determined under IC 31-14-21-9 through IC 31-14-21-11~~ **under IC 31-14** or the laws applicable to a court of another state when the court obtains jurisdiction

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over the paternity action, the putative father's consent to the adoption **or the voluntary termination of the putative father's parent-child relationship under IC 31-35-1, or both**, shall be irrevocably implied and the putative father loses the right to contest **both** the adoption, **and** the validity of his implied consent to the adoption, **the termination of the parent-child relationship, and the validity of his implied consent to the termination of the parent-child relationship**. In addition, the putative father loses the right to establish paternity of the child under IC 31-14 or in a court of another state when the court would otherwise be competent to obtain jurisdiction over the paternity action **except as provided in IC 31-19-9-17(b)**.

Nothing \_\_\_\_\_ (mother's name) or anyone else says to \_\_\_\_\_ (putative father's name) relieves \_\_\_\_\_ (putative father's name) of his obligations under this notice.

Under Indiana law, a putative father is a person who is named as or claims that he may be the father of a child born out of wedlock but who has not yet been legally proven to be the child's father.

For purposes of this notice, \_\_\_\_\_ (putative father's name) is a putative father under the laws in Indiana regarding adoption."

SECTION 10. IC 31-19-3-8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 8. The Indiana Rules of Trial Procedure do not apply to the giving of notice under this chapter.**

SECTION 11. IC 31-19-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 1. Except as provided by section 11 of this chapter, if:**

- (1) on or before the date the mother of a child executes a consent to the child's adoption, the mother has provided an attorney or agency arranging the adoption with the name and address of the putative father; and
- (2) the putative father of the child has:
  - (A) failed or refused to consent to the adoption of the child; or
  - (B) not had the parent-child relationship terminated under IC 31-35 (or IC 31-6-5 before its repeal);

the putative father shall be given notice of the adoption proceedings under Rule 4.1 of the Indiana Rules of Trial Procedure.

SECTION 12. IC 31-19-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 2. Except as provided by section 11 of this chapter, if:**

- (1) on or before the date the mother of a child executes a consent to the child's adoption, the mother has not provided an attorney or agency arranging the adoption with the name or address, or both,



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of the putative father of the child; and  
(2) the putative father of the child has:

- (A) failed or refused to consent to the adoption of the child or has not had the parent-child relationship terminated under IC 31-35 (or IC 31-6-5 before its repeal); and
- (B) registered with the putative father registry under IC 31-19-5 (or IC 31-6-5 before its repeal) within the period under IC 31-19-5-12;

the putative father shall be given notice of the adoption proceedings under Rule 4.1 of the Indiana Rules of Trial Procedure.

SECTION 13. IC 31-19-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. Notice of the adoption proceeding required under section 3 of this chapter shall be given to an unnamed putative father in substantially the following form:

"NOTICE TO UNNAMED FATHER

The unnamed putative father of the child born to \_\_\_\_\_ (mother's name) on \_\_\_\_\_ (date), or the person who claims to be the father of the child born to \_\_\_\_\_ (mother's name) on \_\_\_\_\_ (date), is notified that a petition for adoption of the child was filed in the office of the clerk of \_\_\_\_\_ court, \_\_\_\_\_ (address of court).

If the unnamed putative father seeks to contest the adoption of the child, the unnamed putative father must file a motion to contest the adoption in accordance with IC 31-19-10-1 in the above named court or a paternity action under IC 31-14 within thirty (30) days after the date of service of this notice. This notice may be served by publication.

If the unnamed putative father:

- (1) does not file:
  - (A) a motion to contest the adoption; or
  - (B) a paternity action under IC 31-14;
 within thirty (30) days after service of this notice; or
- (2) after filing a paternity action under IC 31-14 fails to establish paternity; ~~within a reasonable period as determined by the paternity court under IC 31-14-21-9 through IC 31-14-21-11;~~

the above named court shall hear and determine the petition for adoption. The unnamed putative father's consent is irrevocably implied and the unnamed putative father loses the right to contest the adoption or the validity of the unnamed putative father's implied consent to the adoption. The unnamed putative father loses the right to establish paternity of the child under IC 31-14.

Nothing \_\_\_\_\_ (mother's name) or any one else says to the unnamed putative father of the child relieves the unnamed putative

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father of his obligations under this notice.

Under Indiana law, a putative father is a person who is named as or claims that he may be the father of a child born out of wedlock but who has not yet been legally proven to be the child's father."

SECTION 14. IC 31-19-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. Notice of the adoption proceeding shall be given to:

- (1) the putative father who is entitled to notice under section 1 or 2 of this chapter; or
- (2) a named putative father under section 3 of this chapter;

in substantially the following form:

"NOTICE TO NAMED FATHER

\_\_\_\_\_ (putative father's name), who has been named the father of the child born to \_\_\_\_\_ (mother's name) on \_\_\_\_\_ (date), or who claims to be the father of the child born to \_\_\_\_\_ (mother's name) on \_\_\_\_\_ (date), is notified that a petition for adoption of the child was filed in the office of the clerk of \_\_\_\_\_ court, \_\_\_\_\_ (address of the court).

If \_\_\_\_\_ (putative father's name) seeks to contest the adoption of the child, he must file a motion to contest the adoption in accordance with IC 31-19-10-1 in the above named court, or a paternity action under IC 31-14 not later than thirty (30) days after the date of service of this notice.

If \_\_\_\_\_ (putative father's name):

(1) does not file:

(A) a motion to contest the adoption; or

(B) a paternity action under IC 31-14;

within thirty (30) days after service of this notice; or

(2) after filing a paternity action under IC 31-14 fails to establish paternity; ~~within a reasonable period as determined by the paternity court under IC 31-14-21-9 through IC 31-14-21-11;~~

the above named court will hear and determine the petition for adoption. His consent will be irrevocably implied and he will lose his right to contest either the adoption or the validity of his implied consent to the adoption. He will lose his right to establish his paternity of the child under IC 31-14.

Nothing \_\_\_\_\_ (mother's name) or anyone else says to \_\_\_\_\_ (putative father's name) relieves \_\_\_\_\_ (putative father's name) of his obligations under this notice.

Under Indiana law, a putative father is a person who is named as or claims that he may be the father of a child born out of wedlock but who has not yet been legally proven to be the child's father. For purposes of

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this notice, \_\_\_\_\_ (putative father's name) is a putative father under the laws in Indiana regarding adoption."

SECTION 15. IC 31-19-4-13 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 13. Only the rules of the Indiana Rules of Trial Procedure specified in this chapter apply to the giving of notice under this chapter.**

SECTION 16. IC 31-19-9-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 12. A putative father's consent to adoption is irrevocably implied without further court action if the putative father:

- (1) fails to file:
  - (A) a motion to contest the adoption in accordance with IC 31-19-10; and
  - (B) a paternity action under IC 31-14;
    - within thirty (30) days after service of notice under IC 31-19-4;
- (2) having filed a motion to contest the adoption in accordance with IC 31-19-10, fails to appear at the hearing set to contest the adoption;
- (3) having filed a paternity action under IC 31-14, fails to establish paternity in the action; ~~within a reasonable period determined under IC 31-14-21-9 through IC 31-14-21-11;~~ or
- (4) is required to but fails to register with the putative father registry established by IC 31-19-5 within the period under IC 31-19-5-12.

SECTION 17. IC 31-19-9-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 15. (a) The putative father's consent to adoption of the child is irrevocably implied without further court action if the father:

- (1) fails to file a paternity action:
  - (A) under IC 31-14; or
  - (B) in a court located in another state that is competent to obtain jurisdiction over the paternity action;
    - not more than thirty (30) days after receiving actual notice under IC 31-19-3 of the mother's intent to proceed with an adoptive placement of the child, regardless of whether the child is born before or after the expiration of the thirty (30) day period; or
- (2) files a paternity action:
  - (A) under IC 31-14; or
  - (B) in a court located in another state that is competent to obtain jurisdiction over the paternity action;
    - during the thirty (30) day period prescribed by subdivision (1) and



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fails to establish paternity in the paternity proceeding ~~within a reasonable period determined under IC 31-14-21-9 through IC 31-14-21-11~~ **under IC 31-14** or the laws applicable to a court of another state when the court obtains jurisdiction over the paternity action.

**(b) This section does not prohibit a putative father who meets the requirements of section 17(b) of this chapter from establishing paternity of the child.**

SECTION 18. IC 31-19-9-17 IS AMENDED TO READ AS FOLLOWS [JULY 1, 1999] [EFFECTIVE JULY 1, 1999]: Sec. 17. (a) A putative father whose consent to an adoption is implied under section 15 of this chapter is not entitled to establish paternity of the child:

- (1) in a court proceeding under IC 31-14; or
- (2) by executing a paternity affidavit under IC 16-37-2-2.1.

**(b) Notwithstanding subsection (a), a putative father who is barred from establishing paternity of the child under subsection (a) may establish paternity of the child in a court proceeding under IC 31-14 if:**

**(1) the putative father submits, together with the petition to establish paternity, an affidavit prepared by the:**

- (A) licensed child placing agency; or**
- (B) attorney;**

**that served notice or caused notice to be served upon the putative father under IC 31-19-3-1 stating that neither a petition for adoption nor a placement of the child in a proposed adoptive home is pending; and**

**(2) the court finds on the record, based on all the information available to the court, including an affidavit described under subdivision (1), that neither a:**

- (A) petition for adoption; nor**
- (B) placement of the child in a prospective adoptive home; is pending.**

SECTION 19. IC 31-35-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. (a) If requested by the parents:

- (1) the county office of family and children; or
- (2) a licensed child placing agency;

may sign and file a verified petition with the juvenile or probate court for the voluntary termination of the parent-child relationship.

(b) The petition must:

- (1) be entitled "In the Matter of the Termination of the Parent-Child Relationship of \_\_\_\_\_, a child, and



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\_\_\_\_\_, the child's parent (or parents)"; and

(2) allege that:

- (A) the parents are the child's natural or adoptive parents;
- (B) the parents, including the alleged or adjudicated father if the child was born out of wedlock:
  - (i) knowingly and voluntarily consent to the termination of the parent-child relationship; or
  - (ii) are not required to consent to the termination of the parent-child relationship under section 6(b) of this chapter;**
- (C) termination is in the child's best interest; and
- (D) the petitioner has developed a satisfactory plan of care and treatment for the child.

SECTION 20. IC 31-35-1-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 4.5. The putative father's consent to the termination of the parent-child relationship is irrevocably implied without further court action if the father:**

- (1) fails to file a paternity action under IC 31-14 or in a court located in another state that is competent to obtain jurisdiction over the paternity action, not more than thirty (30) days after receiving actual notice under IC 31-19-3 of the mother's intent to proceed with an adoptive placement of the child, regardless of whether:**
    - (A) the child is born before or after the expiration of the thirty (30) day period; or**
    - (B) a petition for adoption or for the termination of the parent-child relationship is filed; or**
  - (2) files a paternity action:**
    - (A) under IC 31-14; or**
    - (B) in a court located in another state that is competent to obtain jurisdiction over the paternity action;**
- during the thirty (30) day period prescribed by subdivision (1) and fails to establish paternity in the paternity proceeding within a reasonable period determined under IC 31-14-21-9 through IC 31-14-21-11 or the laws applicable to a court of another state when the court obtains jurisdiction over the paternity action.**

SECTION 21. IC 31-35-1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 6. **(a) Except as provided in subsection (b),** the parents must give their consent in open court unless the court makes findings of fact upon the record that:



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- (1) the parents gave their consent in writing before a person authorized by law to take acknowledgments;
- (2) the parents were notified of their constitutional and other legal rights and of the consequences of their actions under section 12 of this chapter. and
- (3) the parents failed to appear.

**(b) The consent of a parent to the termination of the parent-child relationship under this chapter is not required if:**

- (1) consent to the termination of the parent-child relationship is implied under section 4.5 of this chapter, if the parent is the putative father; or**
- (2) the parent's consent to the adoption of the child would not be required under:**
  - (A) IC 31-19-9-9; or**
  - (B) IC 31-19-9-10.**

SECTION 22. IC 31-35-1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 11. If the court makes findings of fact upon the record that:

- (1) one (1) parent has made a valid consent to the termination of the parent-child relationship;
- (2) the other parent:
  - (A) is required under this chapter to consent to the termination of the parent-child relationship;**
  - (B) cannot be located, after a good faith effort has been made to do so, or**
  - has been located but fails to appear at the termination hearing; and**
  - ~~(3) the other parent (C)~~ **(C)** has been served with notice of the ~~proceedings~~ **hearing** in the most effective means under the circumstances; and
  - ~~(4)~~ **(3)** the investigation that may be required by section 7 of this chapter has been completed and entered on the record;

the court may enter a default judgment against the unavailable parent and terminate as to both parents."

Page 2, line 3, delete "last" and insert "**second or third**".

Page 2, line 10, delete "last" and insert "**second or third**".

Page 2, line 31, delete "In addition,".

Page 2, line 32, delete "payments", begin a new paragraph and insert:

**"(c) Except as provided in this subsection, payments".**

Page 2, line 32, delete "subdivisions (5) through (9)" and insert "**subsection (b)(5) through (b)(9)**".

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Page 2, line 33, delete "two" and insert "**three**".

Page 2, line 33, delete "five hundred".

Page 2, line 33, delete "\$2,500" and insert "**(\$3,000)**".

Page 2, line 34, after "adoption." insert "**The amounts paid under subsection (b)(5) through (b)(9) may exceed three thousand dollars (\$3,000) to the extent that a court in Indiana with jurisdiction over the child who is the subject of the adoption approves the expenses after determining that:**

**(1) the expenses are not being offered as an inducement to proceed with an adoption; and**

**(2) failure to make the payments may seriously jeopardize the health of either the child or the mother of the child and the direct relationship is documented by the attending physician."**

Page 2, line 35, delete "(c)" and insert "**(d)**".

Page 2, between lines 39 and 40, begin a new paragraph and insert:

**"(e) The limitations in this section apply regardless of the state or country in which the adoption is finalized."**

Page 3, after line 13, begin a new paragraph and insert:

**"SECTION 25. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 1999]: IC 31-14-21-10; IC 31-14-21-11; IC 31-14-21-12."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 310 as introduced.)

BRAY, Chairperson

Committee Vote: Yeas 10, Nays 0.

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