

SENATE BILL No. 426

DIGEST OF INTRODUCED BILL

Citations Affected: IC 31-9-2-0.5; IC 31-14-1-1; IC 31-19; IC 31-34; IC 35-46-1.

Synopsis: Adoption and abandoned infants. Expands the general assembly's public policy statement on paternity. Requires notice of adoption to be given to the child's putative father if the child is at least one year of age and the putative father has exercised any visitation with and provided any support for the child within a certain period. Provides that the court may not dismiss an adoption petition contested by the putative father of a child less than one year of age unless: (1) the adoption court determines the putative father has not failed without justifiable cause to significantly communicate with and support the child for at least one year; and (2) the putative father subsequently establishes paternity of the child within a certain period. Limits payment for certain adoption related expenses to an aggregate of \$3,000. Expands the offense of adoption deception. Authorizes an emergency medical provider to take custody of an abandoned infant who is not more than 30 days of age if: (1) the infant is voluntarily left with the provider by the child's parent; and (2) the parent does not express an intent to return for the infant. Provides a defense to a prosecution for child neglect if an emergency medical provider takes custody of the child under this new authority. Requires a juvenile court to hold an expedited hearing on a child in need of services petition relating to the abandoned infant. Makes other provisions relating to the emergency custody of an abandoned infant. Relocates a provision defining the offense of child selling.

Effective: July 1, 2000.

Clark

January 10, 2000, read first time and referred to Committee on Judiciary.



C
O
P
Y

Introduced

Second Regular Session 111th General Assembly (2000)

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 1999 General Assembly.

SENATE BILL No. 426

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 31-9-2-0.5 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 0.5. "Abandoned
3 infant", for purposes of IC 31-34-21-5.6, means:
4 (1) a child who is less than twelve (12) months of age and whose
5 parent, guardian, or custodian (~~†~~) has knowingly or intentionally
6 left the child in:
7 (A) an environment that endangers the child's life or health; or
8 (B) a hospital or medical facility;
9 **and has no reasonable plan to assume the care, custody, and**
10 **control of the child; or**
11 (2) a child who is, or appears to be, not more than thirty (30)
12 days of age and whose parent:
13 (A) has knowingly or intentionally left the child with an
14 emergency medical services provider (as defined in
15 IC 16-41-10-1); and (~~2~~) has no reasonable plan to assume the



C
O
P
Y

1 care, custody, and control of

2 **(B) did not express an intent to return for the child.**

3 SECTION 2. IC 31-14-1-1 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 1. The general
5 assembly favors the public policy of:

6 (1) establishing paternity ~~under this article~~ of a child born out of
7 wedlock;

8 **(2) discouraging a biological father of a child born out of**
9 **wedlock from fostering an emotional relationship with a child**
10 **when the biological father fails to protect the child's rights by**
11 **establishing paternity; and**

12 **(3) recognizing factors beyond a mere biological link to a child**
13 **when considering the right of a biological father who has not**
14 **established paternity of a child to contest the child's adoption.**

15 SECTION 3. IC 31-19-2-6, AS AMENDED BY P.L.200-1999,
16 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
17 JULY 1, 2000]: Sec. 6. A petition for adoption must specify the
18 following:

19 (1) The:

20 (A) name if known;

21 (B) sex, race, and age if known, or if unknown, the
22 approximate age; and

23 (C) place of birth;

24 of the child sought to be adopted.

25 (2) The new name to be given the child if a change of name is
26 desired.

27 (3) Whether or not the child possesses real or personal property
28 and, if so, the value and full description of the property.

29 (4) The:

30 (A) name, age, and place of residence of a petitioner for
31 adoption; and

32 (B) if married, place and date of their marriage.

33 (5) The name and place of residence, if known to the petitioner
34 for adoption, of:

35 (A) the parent or parents of the child;

36 (B) if the child is an orphan:

37 (i) the guardian; or

38 (ii) the nearest kin of the child if the child does not have a
39 guardian;

40 (C) the court or agency of which the child is a ward if the child
41 is a ward; or

42 (D) the agency sponsoring the adoption if there is a sponsor.

C
O
P
Y



1 (6) The time, if any, during which the child lived in the home of
 2 the petitioner for adoption.
 3 (7) Whether the petitioner for adoption has been convicted of:
 4 (A) a felony; or
 5 (B) a misdemeanor relating to the health and safety of
 6 children;
 7 and, if so, the date and description of the conviction.
 8 **(8) That proper notice of the adoption has been given**
 9 **whenever any of the following applies:**
 10 **(A) IC 31-19-3-1 (actual notice was served on the putative**
 11 **father before the child's birth).**
 12 **(B) IC 31-19-4-1 (the putative father's name and address**
 13 **have been disclosed by the child's mother).**
 14 **(C) IC 31-19-4-2 (the putative father is properly registered**
 15 **with the putative father registry under IC 31-19-5).**
 16 **(D) IC 31-19-4-2.5 (the putative father of a child who is at**
 17 **least one (1) year of age on the date the adoption petition**
 18 **is filed exercised visitation with and provided support to**
 19 **the child).**
 20 **(E) IC 31-19-4-3 (the child was conceived outside Indiana).**
 21 (9) Additional information consistent with the purpose and
 22 provisions of this article that is considered relevant to the
 23 proceedings, including whether:
 24 (A) a petitioner for adoption is seeking aid; and
 25 (B) the willingness of the petitioner for adoption to proceed
 26 with the adoption is conditioned on obtaining aid.
 27 SECTION 4. IC 31-19-4-1, AS AMENDED BY P.L.200-1999,
 28 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 29 JULY 1, 2000]: Sec. 1. Except as provided by section 11 of this
 30 chapter, if
 31 (†) on or before the date the mother of a child executes a consent
 32 to the child's adoption, the mother has provided an attorney or
 33 agency arranging the adoption with the name and address of the
 34 putative father, ~~and~~
 35 (2) the putative father of the child has:
 36 (A) failed or refused to consent to the adoption of the child; or
 37 (B) not had the parent-child relationship terminated under IC
 38 31-35 (or IC 31-6-5 before its repeal);
 39 the putative father shall be given notice of the adoption proceedings
 40 under Rule 4.1 of the Indiana Rules of Trial Procedure.
 41 SECTION 5. IC 31-19-4-2, AS AMENDED BY P.L.200-1999,
 42 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

C
O
P
Y



1 JULY 1, 2000]: Sec. 2. Except as provided by section 11 of this
2 chapter, if:

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

7 (2) the putative father of the child has

8 ~~(A) failed or refused to consent to the adoption of the child or~~
9 ~~has not had the parent-child relationship terminated under IC~~
10 ~~31-35 (or IC 31-6-5 before its repeal); and~~

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

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 6. IC 31-19-4-2.5 IS ADDED TO THE INDIANA CODE
17 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
18 1, 2000]: **Sec. 2.5. (a) Except as provided in section 11 of this**
19 **chapter, the putative father of a child who is at least one (1) year**
20 **of age on the date a petition for the child's adoption is filed who**
21 **has:**

22 (1) **exercised any visitation with the child; and**

23 (2) **provided any support for the child;**

24 **during the twelve (12) months immediately before the adoption**
25 **petition is filed must be given notice of the adoption proceedings**
26 **under Rule 4.1 of the Indiana Rules of Trial Procedure. However,**
27 **if the identity or whereabouts of the putative father is unknown to**
28 **the birth mother or unavailable through the putative father**
29 **registry, the putative father shall be given notice of the adoption**
30 **under Rule 4.13 of the Indiana Rules of Trial Procedure.**

31 **(b) In an effort to preserve any significant relationship that may**
32 **have developed between a putative father and a child, a putative**
33 **father described in subsection (a) is entitled to notice of the**
34 **adoption under this section even if the putative father has not**
35 **registered with the putative father registry under IC 31-19-5.**

36 SECTION 7. IC 31-19-4-3 IS AMENDED TO READ AS
37 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 3. (a) **Except as**
38 **provided in section 11 of this chapter, if:**

39 (1) the mother of a child:

40 (A) informs an attorney or agency arranging the child's
41 adoption, on or before the date the child's mother executes a
42 consent to the child's adoption, that the child was conceived



C
O
P
Y

- 1 outside Indiana; and
 2 (B) does not disclose to the attorney or agency the name or
 3 address, or both, of the putative father of the child; and
 4 (2) the putative father of the child has
 5 ~~(A) failed or refused to consent to the adoption of the child or~~
 6 ~~has not had the parent-child relationship terminated under IC~~
 7 ~~31-35 (or IC 31-6-5 before its repeal); and~~
 8 ~~(B)~~ not registered with the putative father registry under
 9 IC 31-19-5 within the period under IC 31-19-5-12;

10 the attorney or agency shall serve notice of the adoption proceedings
 11 on the putative father by publication under Rule 4.13 of the Indiana
 12 Rules of Trial Procedure.

13 (b) The only ~~circumstance~~ **circumstances** under which notice to the
 14 putative father must be given by publication under Rule 4.13 of the
 15 Indiana Rules of Trial Procedure ~~is are~~ when:

- 16 (1) the child was conceived outside of Indiana as described in
 17 subsection (a); **or**
 18 **(2) the putative father is entitled to notice under section 2.5 of**
 19 **this chapter.**

20 SECTION 8. IC 31-19-4-4, AS AMENDED BY P.L.200-1999,
 21 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 22 JULY 1, 2000]: Sec. 4. Notice of the adoption proceeding required
 23 under section **2.5 or** 3 of this chapter shall be given to an unnamed
 24 putative father in substantially the following form:

25 "NOTICE TO UNNAMED FATHER

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

31 **(The attorney or agency that provides notice of the adoption**
 32 **shall insert OPTION A (below) into the form of the notice under**
 33 **this section only if the child who is sought to be adopted is less than**
 34 **one (1) year of age on the date the adoption petition is filed.)**

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

41 If the unnamed putative father:

- 42 (1) does not file:



C
O
P
Y

1 (A) a motion to contest the adoption; or
 2 (B) a paternity action under IC 31-14;
 3 within thirty (30) days after service of this notice; or
 4 (2) after filing a paternity action under IC 31-14 fails to establish
 5 paternity;
 6 the above named court shall hear and determine the petition for
 7 adoption. The unnamed putative father's consent is irrevocably implied
 8 and the unnamed putative father loses the right to contest the adoption
 9 or the validity of the unnamed putative father's implied consent to the
 10 adoption. The unnamed putative father loses the right to establish
 11 paternity of the child under IC 31-14.)

12 or

13 **(The attorney or agency that provides notice of the adoption**
 14 **shall insert OPTION B (below) into the form of the notice under**
 15 **this section only if the child who is sought to be adopted is at least**
 16 **one (1) year of age on the date the adoption petition is filed.)**

17 **(OPTION B: If the unnamed putative father seeks to contest the**
 18 **adoption of the child, the unnamed putative father must file a**
 19 **motion to contest the adoption in accordance with IC 31-19-10 in**
 20 **the above named court within thirty (30) days after the date of**
 21 **service of this notice. The notice may be served by publication.**

22 **If the unnamed putative father files a motion to contest the**
 23 **adoption within thirty (30) days after service of this notice, the**
 24 **court will first determine whether the putative father has failed,**
 25 **without justifiable cause, to significantly communicate with and**
 26 **support the child for at least one (1) year. If the court determines**
 27 **that the putative father has significantly communicated with and**
 28 **supported the child for at least one (1) year, the putative father will**
 29 **then be required to establish paternity of the child before the court**
 30 **will dismiss the adoption petition.**

31 **If the unnamed putative father:**

32 **(1) does not file a motion to contest the adoption within thirty**
 33 **(30) days after service of this notice; or**
 34 **(2) files a motion to contest the adoption within thirty (30)**
 35 **days after service of this notice and the court determines that**
 36 **the putative father has failed, without justifiable cause, to**
 37 **significantly communicate and support the child for at least**
 38 **one (1) year;**

39 **the above named court shall dismiss the motion to contest the**
 40 **adoption, if any motion has been filed, and shall hear and**
 41 **determine the petition for adoption. The unnamed putative father's**
 42 **consent is irrevocably implied and the unnamed putative father**



C
O
P
Y

1 **loses the right to contest the adoption or the validity of the**
 2 **unnamed putative father's implied consent to the adoption. The**
 3 **unnamed putative father then loses the right to establish paternity**
 4 **of the child under IC 31-14.)**

5 Nothing _____ (mother's name) or any one else says to the
 6 unnamed putative father of the child relieves the unnamed putative
 7 father of his obligations under this notice.

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

11 SECTION 9. IC 31-19-4-5, AS AMENDED BY P.L.200-1999,
 12 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 13 JULY 1, 2000]: Sec. 5. Notice of the adoption proceeding shall be
 14 given to:

15 (1) the putative father who is entitled to notice under section 1 or
 16 2 of this chapter; or

17 (2) a named putative father under section **2.5** or 3 of this chapter;
 18 in substantially the following form:

19 "NOTICE TO NAMED FATHER

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

26 **(The attorney or agency that provides notice of the adoption**
 27 **shall insert OPTION A (below) into the form of the notice under**
 28 **this section only if the child who is sought to be adopted is less than**
 29 **one (1) year of age on the date the adoption petition is filed.)**

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

35 If _____ (putative father's name):

36 (1) does not file:

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

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

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

40 (2) after filing a paternity action under IC 31-14 fails to establish
 41 paternity;

42 the above named court will hear and determine the petition for



C
O
P
Y

1 adoption. His consent will be irrevocably implied and he will lose his
 2 right to contest either the adoption or the validity of his implied consent
 3 to the adoption. He will lose his right to establish his paternity of the
 4 child under IC 31-14.)

5 **or**

6 **(The attorney or agency that provides notice of the adoption**
 7 **shall insert OPTION B (below) into the form of the notice under**
 8 **this section only if the child who is sought to be adopted is less than**
 9 **one (1) year of age on the date the adoption petition is filed.)**

10 **(OPTION B: If _____ (putative father's name) seeks to**
 11 **contest the adoption of the child, he must file a motion to contest**
 12 **the adoption in accordance with IC 31-19-10 in the above named**
 13 **court not later than thirty (30) days after the date of service of**
 14 **notice.**

15 **If _____ (putative father's name) files a motion to contest the**
 16 **adoption within thirty (30) days after service of this notice, the**
 17 **court will first determine whether the putative father has failed,**
 18 **without justifiable cause, to significantly communicate with and**
 19 **support the child for at least one (1) year. If the court determines**
 20 **that the putative father has significantly communicated with and**
 21 **supported the child for at least one (1) year, the putative father will**
 22 **then be required to establish paternity of the child before the court**
 23 **will dismiss the adoption petition.**

24 **If _____ (putative father's name):**

25 **(1) does not file a motion to contest the adoption within thirty**
 26 **(30) days after service of this notice; or**

27 **(2) files a motion to contest the adoption within thirty (30)**
 28 **days after service of this notice and the court determines that**
 29 **the putative father has failed, without justifiable cause, to**
 30 **significantly communicate and support the child for at least**
 31 **one (1) year;**

32 **the above named court shall dismiss the motion to contest the**
 33 **adoption, if any motion has been filed, and shall hear and**
 34 **determine the petition for adoption. His consent will be irrevocably**
 35 **implied and the unnamed putative father loses the right to contest**
 36 **the adoption or the validity of the unnamed putative father's**
 37 **implied consent to the adoption. He will lose the right to establish**
 38 **paternity of the child under IC 31-14.)**

39 **Nothing _____ (mother's name) or anyone else says to**
 40 **_____ (putative father's name) relieves _____**
 41 **(putative father's name) of his obligations under this notice.**

42 **Under Indiana law, a putative father is a person who is named as or**

C
O
P
Y



1 claims that he may be the father of a child born out of wedlock but who
 2 has not yet been legally proven to be the child's father. For purposes of
 3 this notice, _____ (putative father's name) is a putative father
 4 under the laws in Indiana regarding adoption."

5 SECTION 10. IC 31-19-4-6 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 6. Except as provided
 7 in section **2.5** or 3 of this chapter, if:

- 8 (1) on or before the date the mother of a child executes a consent
 9 to the child's adoption, the mother does not disclose to the
 10 attorney or agency arranging the adoption the identity or address,
 11 or both, of the putative father; and
 12 (2) the putative father has not registered with the putative father
 13 registry under IC 31-19-5 within the period under IC 31-19-5-12;
 14 the putative father is not entitled to notice of the adoption.

15 SECTION 11. IC 31-19-5-5 IS AMENDED TO READ AS
 16 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 5. **Except as provided**
 17 **in IC 31-19-4-2.5 and IC 31-19-4-3**, if, on or before the date the
 18 mother of a child executes a consent to the child's adoption, the mother
 19 does not disclose to an attorney or agency that:

- 20 (1) is arranging; or
 21 (2) may arrange;
 22 an adoption of the child the name or address, or both, of the putative
 23 father of the child, the putative father must register under this chapter
 24 to entitle the putative father to notice of the child's adoption.

25 SECTION 12. IC 31-19-5-5.5 IS ADDED TO THE INDIANA
 26 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 27 [EFFECTIVE JULY 1, 2000]: **Sec. 5.5. (a) This section applies to a**
 28 **putative father regardless of whether the putative father registers**
 29 **in accordance with this chapter (or IC 31-3-1.5 before its repeal).**

30 **(b) A putative father of a child who is at least one (1) year of age**
 31 **on the date a petition for the child's adoption is filed may not**
 32 **successfully contest the child's adoption if the court presiding over**
 33 **the adoption determines that the putative father has failed, without**
 34 **justifiable cause, to significantly communicate with and support**
 35 **the child for at least one (1) year.**

36 SECTION 13. IC 31-19-5-6 IS AMENDED TO READ AS
 37 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 6. **Except as provided**
 38 **in IC 31-19-4-2.5 and IC 31-19-4-3**, this chapter does not relieve a
 39 man who is presumed to be a father under 31-14-7-2 from the
 40 obligation of registering in accordance with this chapter to be entitled
 41 to notice of an adoption of a child for whom the man may be the
 42 presumed father.



C
O
P
Y

1 SECTION 14. IC 31-19-5-12 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 12. (a) **Except as**
 3 **provided in IC 31-19-4-2.5 and IC 31-19-4-3**, to be entitled to notice
 4 of an adoption, ~~under IC 31-19-3 or IC 31-19-4~~, a putative father must
 5 register with the state department of health under section 5 of this
 6 chapter not later than:

- 7 (1) thirty (30) days after the child's birth; or
 8 (2) the date of the filing of a petition for the child's adoption;

9 whichever occurs later.

10 (b) A putative father may register under subsection (a) before the
 11 child's birth.

12 SECTION 15. IC 31-19-5-18 IS AMENDED TO READ AS
 13 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 18. **Except as**
 14 **provided in IC 31-19-4-2.5 and IC 31-19-4-3**, a putative father who
 15 fails to register within the period specified by section 12 of this chapter
 16 waives notice of an adoption proceeding. The putative father's waiver
 17 under this section constitutes an irrevocably implied consent to the
 18 child's adoption.

19 SECTION 16. IC 31-19-9-10 IS AMENDED TO READ AS
 20 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 10. A court shall
 21 determine that consent to adoption is not required from a parent if:

- 22 (1) the parent is convicted of and incarcerated at the time of the
 23 filing of a petition for adoption for:

- 24 (A) murder (IC 35-42-1-1);
 25 (B) causing suicide (IC 35-42-1-2);
 26 (C) voluntary manslaughter (IC 35-42-1-3);
 27 (D) rape (IC 35-42-4-1);
 28 (E) criminal deviate conduct (IC 35-42-4-2);
 29 (F) child molesting as a Class A or Class B felony
 30 (IC 35-42-4-3);
 31 (G) incest as a Class B felony (IC 35-46-1-3);
 32 (H) neglect of a dependent as a Class B felony (IC 35-46-1-4);
 33 (I) battery of a child as a Class C felony (IC 35-42-2-1(a)(3));

34 **or**

- 35 (J) an attempt under IC 35-41-5-1 to commit an offense
 36 described in clauses (A) through (I); **or**

37 **(K) a crime in another state that is substantially similar to**
 38 **a crime described in clauses (A) through (J).**

- 39 (2) the child or the child's sibling, half-blood sibling, or
 40 step-sibling of the parent's current marriage is the victim of the
 41 offense; and

- 42 (3) after notice to the parent and a hearing, the court determines



C
O
P
Y

1 that dispensing with the parent's consent to adoption is in the
2 child's best interests.

3 SECTION 17. IC 31-19-9-12, AS AMENDED BY P.L.200-1999,
4 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 JULY 1, 2000]: Sec. 12. A putative father's consent to adoption is
6 irrevocably implied without further court action if:

7 (1) the putative father of a child who is less than one (1) year of
8 age on the date the petition for the child's adoption is filed
9 ~~(+) fails to~~ **does not** file:

10 (A) a motion to contest the adoption in accordance with
11 IC 31-19-10; ~~and~~ **or**

12 (B) a paternity action under IC 31-14;
13 within thirty (30) days after service of notice under IC 31-19-4;

14 (2) **the putative father of a child who is at least one (1) year of**
15 **age on the date the petition for the child's adoption is filed**
16 **does not:**

17 (A) **file a motion to contest the adoption in accordance with**
18 **IC 31-19-10 within thirty (30) days after service of notice**
19 **under IC 31-19-4; and**

20 (B) **establish paternity within a reasonable period under**
21 **IC 31-14, if allowed to do so by the court under**
22 **IC 31-19-10-5.5(c);**

23 (3) having filed a motion to contest the adoption in accordance
24 with IC 31-19-10, fails to appear at the hearing set to contest the
25 adoption **or prevail on the motion to contest the adoption;**

26 ~~(3)~~ (4) having filed a paternity action under IC 31-14, fails to
27 establish paternity in the action; or

28 ~~(4)~~ (5) is required to but fails to register with the putative father
29 registry established by IC 31-19-5 within the period under
30 IC 31-19-5-12.

31 SECTION 18. IC 31-19-10-5.5 IS ADDED TO THE INDIANA
32 CODE AS A NEW SECTION TO READ AS FOLLOWS
33 [EFFECTIVE JULY 1, 2000]: **Sec. 5.5. (a) This section applies to a**
34 **motion to contest an adoption that is filed by a putative father in**
35 **relation to a child who is at least one (1) year of age on the date the**
36 **adoption petition is filed.**

37 (b) **The court shall deny a putative father's motion to contest the**
38 **adoption under section 6(2) of this chapter if the court determines**
39 **that the putative father has failed, without justifiable cause, to**
40 **significantly communicate with and support the child for at least**
41 **one (1) year when able to do so. If the putative father has made**
42 **only token efforts to support or communicate with the child, the**



C
O
P
Y

1 court may find that the putative father has failed to significantly
2 communicate with and support the child. Furthermore, it is not a
3 defense that the putative father was unaware of the child.

4 (c) This subsection applies whenever the court determines that
5 the putative father has significantly communicated with and
6 supported the child under subsection (b). The court shall dismiss
7 the adoption petition under section 6(1)(B) of this chapter if:

8 (1) the putative father files a paternity action under IC 31-14
9 not more than ten (10) days after the court determines that
10 the putative father has significantly communicated with and
11 supported the child; and

12 (2) the putative father establishes paternity of the child within
13 a reasonable period determined under IC 31-14-21.

14 SECTION 19. IC 31-19-11-1, AS AMENDED BY P.L.200-1999,
15 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
16 JULY 1, 2000]: Sec. 1. (a) Whenever the court has heard the evidence
17 and finds that:

18 (1) the adoption requested is in the best interest of the child;

19 (2) the petitioner or petitioners for adoption are of sufficient
20 ability to rear the child and furnish suitable support and
21 education;

22 (3) the report of the investigation and recommendation under
23 IC 31-19-8-5 has been filed;

24 (4) the attorney or agency arranging an adoption has filed with the
25 court an affidavit prepared by the state department of health under
26 IC 31-19-5-16 indicating whether a man is entitled to notice of the
27 adoption because the man has registered with the putative father
28 registry in accordance with IC 31-19-5;

29 (5) proper notice arising under subdivision (4), as described in
30 IC 31-19-2-6(8), if notice is necessary, of the adoption has been
31 given;

32 (6) the attorney or agency has filed with the court an affidavit
33 prepared by the state department of health under:

34 (A) IC 31-19-6 indicating whether a record of a paternity
35 determination; or

36 (B) IC 16-37-2-2(g) indicating whether a paternity affidavit
37 executed under IC 16-37-2-2.1;

38 has been filed in relation to the child;

39 (7) proper consent, if consent is necessary, to the adoption has
40 been given; and

41 (8) the petitioner for adoption is not prohibited from adopting the
42 child as the result of an inappropriate criminal history described

C
O
P
Y



1 in subsection (c);
 2 the court shall grant the petition for adoption and enter an adoption
 3 decree.

4 (b) A court may not grant an adoption unless the department's
 5 affidavit under IC 31-19-5-16 is filed with the court as provided under
 6 subsection (a)(4).

7 (c) A conviction of a felony or a misdemeanor related to the health
 8 and safety of a child by a petitioner for adoption is a permissible basis
 9 for the court to deny the petition for adoption. In addition, the court
 10 may not grant an adoption if a petitioner for adoption has been
 11 convicted of any of the felonies described as follows:

- 12 (1) Murder (IC 35-42-1-1).
- 13 (2) Causing suicide (IC 35-42-1-2).
- 14 (3) Assisting suicide (IC 35-42-1-2.5).
- 15 (4) Voluntary manslaughter (IC 35-42-1-3).
- 16 (5) Reckless homicide (IC 35-42-1-5).
- 17 (6) Battery as a felony (IC 35-42-2-1).
- 18 (7) Aggravated battery (IC 35-42-2-1.5).
- 19 (8) Kidnapping (IC 35-42-3-2).
- 20 (9) Criminal confinement (IC 35-42-3-3).
- 21 (10) A felony sex offense under IC 35-42-4.
- 22 (11) Carjacking (IC 35-42-5-2).
- 23 (12) Arson (IC 35-43-1-1).
- 24 (13) Incest (IC 35-46-1-3).
- 25 (14) Neglect of a dependent (IC 35-46-1-4(a)(1) and
 26 IC 35-46-1-4(a)(2)).
- 27 (15) Child selling (IC 35-46-1-4(b)).
- 28 (16) A felony involving a weapon under IC 35-47.
- 29 (17) A felony relating to controlled substances under IC 35-48-4.
- 30 (18) An offense relating to material or a performance that is
 31 harmful to minors or obscene under IC 35-49-3.
- 32 (19) A felony that is substantially equivalent to a felony listed in
 33 subdivisions (1) through (18) for which the conviction was
 34 entered in another state.

35 However, the court is not prohibited from granting an adoption based
 36 upon a felony conviction under subdivision (6), (11), (12), (16), or
 37 (17), or its equivalent under subdivision (19), if the offense was not
 38 committed within the immediately preceding five (5) year period.

39 SECTION 20. IC 31-34-2.5 IS ADDED TO THE INDIANA CODE
 40 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 41 JULY 1, 2000]:

42 **Chapter 2.5. Emergency Custody of Certain Abandoned**



C
 O
 P
 Y

1 **Children**

2 **Sec. 1. (a) An emergency medical services provider (as defined**
3 **in IC 16-41-10-1) shall, without a court order, take custody of a**
4 **child who is, or appears to be, not more than thirty (30) days of age**
5 **if:**

6 **(1) the child is voluntarily left with the provider by the child's**
7 **parent; and**

8 **(2) the parent does not express an intent to return for the**
9 **child.**

10 **(b) An emergency medical services provider who takes custody**
11 **of a child under this section shall perform any act necessary to**
12 **protect the physical health or safety of the child.**

13 **Sec. 2. (a) Immediately after an emergency medical services**
14 **provider takes custody of a child under section 1 of this chapter,**
15 **the provider shall notify the local child protection service that the**
16 **provider has taken custody of the child.**

17 **(b) The local child protection service shall assume the care,**
18 **control, and custody of the child immediately on receipt of notice**
19 **under subsection (a).**

20 **Sec. 3. A child for whom the local child protection service**
21 **assumes care, control, and custody under section 2 of this chapter**
22 **shall be treated as a child taken into custody without a court order,**
23 **except that efforts to locate the child's parents or reunify the**
24 **child's family are not necessary, if the court makes a finding to that**
25 **effect under IC 31-34-21-5.6(b)(5).**

26 **Sec. 4. Whenever a child is taken into custody without a court**
27 **order under this chapter, the attorney for the county office of**
28 **family and children shall, without unnecessary delay, request the**
29 **juvenile court to:**

30 **(1) authorize the filing of a petition alleging that the child is a**
31 **child in need of services;**

32 **(2) hold an initial hearing under IC 31-34-10 not later than**
33 **the next business day after the child is taken into custody; and**

34 **(3) appoint a guardian ad litem for the child.**

35 **SECTION 21. IC 31-34-10-2 IS AMENDED TO READ AS**
36 **FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 2. (a) The juvenile**
37 **court shall hold an initial hearing on each petition.**

38 **(b) The juvenile court shall set a time for the initial hearing. A**
39 **summons shall be issued for the following:**

40 **(1) The child.**

41 **(2) The child's parent, guardian, custodian, or guardian ad litem.**

42 **(3) Any other person necessary for the proceedings.**

C
O
P
Y



1 (c) A copy of the petition must accompany each summons. The
 2 clerk shall issue the summons under Rule 4 of the Indiana Rules of
 3 Trial Procedure.

4 **(d) The juvenile court shall hold the initial hearing on a petition**
 5 **arising from an emergency medical services provider's taking**
 6 **custody under IC 31-34-2.5 of an infant who is left with the**
 7 **emergency medical services provider on the next business day after**
 8 **the emergency medical services provider takes the infant into**
 9 **custody. However, if the court is unavailable for a hearing on the**
 10 **next business day, the hearing must be held when the court**
 11 **becomes available; however, the hearing must be held not later**
 12 **than the third business day after the infant is taken into custody.**

13 SECTION 22. IC 31-34-21-5.6, AS AMENDED BY P.L.197-1999,
 14 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 15 JULY 1, 2000]: Sec. 5.6. (a) A court may make a finding described in
 16 this section at any phase of a child in need of services proceeding.

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

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

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

- 26 (i) a child described in IC 31-35-3-4(2); or
 27 (ii) a parent of the child; or

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

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

33 (A) has been convicted of:

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

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

39 (B) has been convicted of:

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

41 (ii) attempting; or

42 (iii) conspiring with another person;

C
O
P
Y



- 1 to commit an offense described in clause (A).
- 2 (3) A parent, guardian, or custodian of a child who is a child in
- 3 need of services has been convicted of:
- 4 (A) battery (IC 35-42-2-1 (a)(4)) as a Class B felony;
- 5 (B) battery (IC 35-42-2-1(a)(3)) as a Class C felony;
- 6 (C) aggravated battery (IC 35-42-2-1.5);
- 7 (D) criminal recklessness (IC 35-42-2-2(c)) as a Class C
- 8 felony;
- 9 (E) neglect of a dependent (IC 35-46-1-4) as a Class B felony;
- 10 or
- 11 (F) a comparable offense described in clauses (A) through (E)
- 12 in another state, territory, or country;
- 13 against a child described in IC 31-35-3-4(2)(B).
- 14 (4) The parental rights of a parent with respect to a biological or
- 15 adoptive sibling of a child who is a child in need of services have
- 16 been involuntarily terminated by a court under:
- 17 (A) IC 31-35-2 (involuntary termination involving a
- 18 delinquent child or a child in need of services);
- 19 (B) IC 31-35-3 (involuntary termination involving an
- 20 individual convicted of a criminal offense); or
- 21 (C) any comparable law described in clause (A) or (B) in any
- 22 other state, territory, or country.
- 23 (5) The child is an abandoned infant, provided that the court:
- 24 (A) has appointed a guardian ad litem or court appointed
- 25 special advocate for the child; and
- 26 (B) after receiving a written report and recommendation from
- 27 the guardian ad litem or court appointed special advocate, and
- 28 after a hearing, finds that reasonable efforts to locate the
- 29 child's parents or reunify the child's family would not be in the
- 30 best interests of the child. **However, there is a rebuttable**
- 31 **presumption that it is not in the best interests of the child**
- 32 **to locate the child's parent or reunify the child's family if**
- 33 **the child was left with an emergency medical services**
- 34 **provider who took custody of the child under IC 31-34-2.5.**
- 35 SECTION 23. IC 35-46-1-4, AS AMENDED BY P.L.197-1999,
- 36 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 37 JULY 1, 2000]: Sec. 4. (a) A person having the care of a dependent,
- 38 whether assumed voluntarily or because of a legal obligation, who
- 39 knowingly or intentionally:
- 40 (1) places the dependent in a situation that endangers the
- 41 dependent's life or health;
- 42 (2) abandons or cruelly confines the dependent;

COPY



1 (3) deprives the dependent of necessary support; or
 2 (4) deprives the dependent of education as required by law;
 3 commits neglect of a dependent, a Class D felony.
 4 (b) However, the offense is:
 5 (1) a Class C felony if it is committed under subsection (a)(1),
 6 (a)(2), or (a)(3) and results in bodily injury;
 7 (2) a Class B felony if it is committed under subsection (a)(1),
 8 (a)(2), or (a)(3) and results in serious bodily injury; and
 9 (3) a Class C felony if it is committed under subsection (a)(2) and
 10 consists of cruel or unusual confinement or abandonment.
 11 (c) It is a defense **to a prosecution under this section** that the
 12 accused person:
 13 (1) **left a child dependent who is not more than thirty (30)**
 14 **days of age with an emergency medical provider who took**
 15 **custody of the child under IC 31-34-2.5; or**
 16 (2) in the legitimate practice of his religious belief, provided
 17 treatment by spiritual means through prayer, in lieu of medical
 18 care, to his dependent.
 19 (c) Except for property transferred or received:
 20 (1) under a court order made in connection with a proceeding
 21 under IC 31-15, IC 31-16, IC 31-17, or IC 31-35 (or IC 31-1-11.5
 22 or IC 31-6-5 before their repeal); or
 23 (2) under IC 35-46-1-9(b);
 24 a person who transfers or receives any property in consideration for the
 25 termination of the care, custody, or control of a person's dependent
 26 child commits child selling, a Class D felony.
 27 SECTION 24. IC 35-46-1-4.5 IS ADDED TO THE INDIANA
 28 CODE AS A NEW SECTION TO READ AS FOLLOWS
 29 [EFFECTIVE JULY 1, 2000]: **Sec. 4.5. (a) This section does not**
 30 **apply to a person who transfers or receives property:**
 31 (1) **under a court order made in connection with a proceeding**
 32 **under IC 31-15, IC 31-16, IC 31-17, or IC 31-35 (or**
 33 **IC 31-1-11.5 or IC 31-6-5 before their repeal); or**
 34 (2) **under IC 35-46-1-9(b).**
 35 (b) **A person who transfers or receives any property in**
 36 **consideration for the termination of the care, custody, or control**
 37 **of a person's dependent child commits child selling, a Class D**
 38 **felony.**
 39 SECTION 25. IC 35-46-1-9, AS AMENDED BY P.L.200-1999,
 40 SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 41 JULY 1, 2000]: Sec. 9. (a) Except as provided in subsection (b), a
 42 person who, with respect to an adoption, transfers or receives any

COPY



1 property in connection with the waiver of parental rights, the
 2 termination of parental rights, the consent to adoption, or the petition
 3 for adoption commits profiting from an adoption, a Class D felony.

4 (b) This section does not apply to the transfer or receipt of:

- 5 (1) reasonable attorney's fees;
 6 (2) hospital and medical expenses concerning childbirth and
 7 pregnancy incurred by the adopted person's birth mother;
 8 (3) reasonable charges and fees levied by a child placing agency
 9 licensed under IC 12-17.4 or by a county office of family and
 10 children;
 11 (4) reasonable expenses for psychological counseling relating to
 12 adoption incurred by the adopted person's birth parents;
 13 (5) reasonable costs of housing, utilities, and phone service for the
 14 adopted person's birth mother during the second ~~or~~ **and** third
 15 trimester of pregnancy and not more than six (6) weeks after
 16 childbirth;
 17 (6) reasonable costs of maternity clothing for the adopted person's
 18 birth mother;
 19 (7) reasonable travel expenses incurred by the adopted person's
 20 birth mother that relate to the pregnancy or adoption;
 21 (8) any additional itemized necessary living expenses for the
 22 adopted person's birth mother during the second or third trimester
 23 of pregnancy and not more than six (6) weeks after childbirth, not
 24 listed in subdivisions (5) through (7) in an amount not to exceed
 25 one thousand dollars (\$1,000); or
 26 (9) other charges and fees approved by the court supervising the
 27 adoption, including reimbursement of not more than actual wages
 28 lost as a result of the inability of the adopted person's birth mother
 29 to work at her regular, existing employment due to a medical
 30 condition, excluding a psychological condition, if:

31 (A) the attending physician of the adopted person's birth
 32 mother has ordered or recommended that the adopted person's
 33 birth mother discontinue her employment; and

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

37 In determining the amount of reimbursable lost wages, if any, that are
 38 reasonably payable to the adopted person's birth mother under
 39 subdivision (9), the court shall offset against the reimbursable lost
 40 wages any amounts paid to the adopted person's birth mother under
 41 subdivisions (5) and (8) and any unemployment compensation received
 42 by or owed to the adopted person's birth mother.



C
O
P
Y

1 (c) Except as provided in this subsection, payments made under
2 subsection (b)(5) through (b)(9) may not exceed **an aggregate of three**
3 **thousand dollars (\$3,000), regardless of how many prospective**
4 **adoptive parents attempt to adopt the birth mother's child,** and
5 must be disclosed to the court supervising the adoption. The amounts
6 paid under subsection (b)(5) through (b)(9) may exceed three thousand
7 dollars (\$3,000) to the extent that a court in Indiana with jurisdiction
8 over the child who is the subject of the adoption approves the expenses
9 after determining that:

- 10 (1) the expenses are not being offered as an inducement to
11 proceed with an adoption; and
- 12 (2) failure to make the payments may seriously jeopardize the
13 health of either the child or the mother of the child and the direct
14 relationship is documented by the attending physician.

15 (d) An attorney or licensed child placing agency shall inform a birth
16 mother of the penalties for committing adoption deception under
17 section 9.5 of this chapter before the attorney or agency transfers a
18 payment for adoption related expenses under subsection (b) in relation
19 to the birth mother.

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

22 SECTION 26. IC 35-46-1-9.5, AS ADDED BY P.L.200-1999,
23 SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
24 JULY 1, 2000]: Sec. 9.5. (a) **As used in this section, "person" refers**
25 **to a birth mother or a woman who holds herself out to be a birth**
26 **mother.**

27 (b) A person who is a ~~birth mother, or a woman who holds herself~~
28 ~~out to be a birth mother, and who~~ knowingly or intentionally benefits
29 from adoption related expenses paid:

- 30 (1) when the person knows or should have known that the person
31 is not pregnant; or
- 32 (2) by or on behalf of a prospective adoptive parent:
 - 33 (A) who is unaware that at the same time another prospective
34 adoptive parent is also incurring adoption related expenses in
35 an effort to adopt the same child; or
 - 36 (B) **when the person does not intend to make an adoptive**
37 **placement with the prospective adoptive parent;**

38 commits adoption deception, a Class A misdemeanor. In addition to
39 any other penalty imposed under this section, a court may order the
40 person who commits adoption deception to make restitution to a
41 prospective adoptive parent, attorney, or licensed child placing agency
42 that incurs an expense as a result of the offense.

C
O
P
Y

