

# SENATE MOTION

**MR. PRESIDENT:**

**I move** that Senate Bill 425 be amended to read as follows:

- 1           Page 1, between the enacting clause and line 1, begin a new  
2 paragraph and insert:  
3           "SECTION 1. IC 31-9-2-0.5 IS AMENDED TO READ AS  
4 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 0.5. "Abandoned  
5 infant", for purposes of IC 31-34-21-5.6, means:  
6           **(1) a child who is less than twelve (12) months of age and whose**  
7           **parent, guardian, or custodian (~~†~~) has knowingly or intentionally**  
8           **left the child in:**  
9           **(A) an environment that endangers the child's life or health; or**  
10           **(B) a hospital or medical facility;**  
11           **without a reasonable plan to assume the care, custody, and**  
12           **control of the child; or**  
13           **(2) a child who is, or appears to be, not more than thirty (30)**  
14           **days of age and whose parent:**  
15           **(A) has knowingly or intentionally left the child with an**  
16           **emergency medical services provider (as defined in**  
17           **IC 16-41-10-1); and (~~2~~) has no reasonable plan to assume the**  
18           **care, custody, and control of**  
19           **(B) did not express an intent to return for the child."**  
20           Page 13, between lines 18 and 19, begin a new paragraph and insert:  
21           "SECTION 20. IC 31-34-2.5 IS ADDED TO THE INDIANA CODE  
22 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
23 JULY 1, 2000]:  
24           **Chapter 2.5. Emergency Custody of Certain Abandoned**  
25           **Children**  
26           **Sec. 1. (a) An emergency medical services provider (as defined**  
27           **in IC 16-41-10-1) shall, without a court order, take custody of a**  
28           **child who is, or appears to be, not more than thirty (30) days of age**  
29           **if:**  
30           **(1) the child is voluntarily left with the provider by the child's**

- 1           parent; and
- 2           (2) the parent does not express an intent to return for the
- 3           child.
- 4           (b) An emergency medical services provider who takes custody
- 5           of a child under this section shall perform any act necessary to
- 6           protect the physical health or safety of the child.
- 7           Sec. 2. (a) Immediately after an emergency medical services
- 8           provider takes custody of a child under section 1 of this chapter,
- 9           the provider shall notify the local child protection service that the
- 10          provider has taken custody of the child.
- 11          (b) The local child protection service shall assume the care,
- 12          control, and custody of the child immediately on receipt of notice
- 13          under subsection (a).
- 14          Sec. 3. A child for whom the local child protection service
- 15          assumes care, control, and custody under section 2 of this chapter
- 16          shall be treated as a child taken into custody without a court order,
- 17          except that efforts to locate the child's parents or reunify the
- 18          child's family are not necessary, if the court makes a finding to that
- 19          effect under IC 31-34-21-5.6(b)(5).
- 20          Sec. 4. Whenever a child is taken into custody without a court
- 21          order under this chapter, the attorney for the county office of
- 22          family and children shall, without unnecessary delay, request the
- 23          juvenile court to:
- 24               (1) authorize the filing of a petition alleging that the child is a
- 25               child in need of services;
- 26               (2) hold an initial hearing under IC 31-34-10 not later than
- 27               the next business day after the child is taken into custody; and
- 28               (3) appoint a guardian ad litem for the child.
- 29          SECTION 21. IC 31-34-10-2 IS AMENDED TO READ AS
- 30          FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 2. (a) The juvenile
- 31          court shall hold an initial hearing on each petition.
- 32          (b) The juvenile court shall set a time for the initial hearing. A
- 33          summons shall be issued for the following:
- 34               (1) The child.
- 35               (2) The child's parent, guardian, custodian, or guardian ad litem.
- 36               (3) Any other person necessary for the proceedings.
- 37          (c) A copy of the petition must accompany each summons. The
- 38          clerk shall issue the summons under Rule 4 of the Indiana Rules of
- 39          Trial Procedure.
- 40          (d) The juvenile court shall hold the initial hearing on a petition
- 41          arising from an emergency medical services provider's taking
- 42          custody under IC 31-34-2.5 of an infant who is left with the
- 43          emergency medical services provider. The initial hearing must be
- 44          held on the next business day after the emergency medical services
- 45          provider takes the infant into custody. If the court is unavailable
- 46          for a hearing on the next business day, the hearing must be held
- 47          when the court becomes available. However, the hearing must be
- 48          held not later than the third business day after the infant is taken

1 **into custody.**

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

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

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

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

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

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

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

22 (A) has been convicted of:  
23 (i) the murder (IC 35-42-1-1) or voluntary manslaughter (IC  
24 35-42-1-3) of a victim who is a child described in  
25 IC 31-35-3-4(2)(B) or a parent of the child; or  
26 (ii) a comparable offense described in item (i) in any other  
27 state, territory, or country; or

28 (B) has been convicted of:  
29 (i) aiding, inducing, or causing another person;  
30 (ii) attempting; or  
31 (iii) conspiring with another person;

32 to commit an offense described in clause (A).

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

35 (A) battery (IC 35-42-2-1 (a)(4)) as a Class B felony;  
36 (B) battery (IC 35-42-2-1(a)(3)) as a Class C felony;  
37 (C) aggravated battery (IC 35-42-2-1.5);  
38 (D) criminal recklessness (IC 35-42-2-2(c)) as a Class C  
39 felony;  
40 (E) neglect of a dependent (IC 35-46-1-4) as a Class B felony;  
41 or  
42 (F) a comparable offense described in clauses (A) through (E)  
43 in another state, territory, or country;

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

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

- 1 (A) IC 31-35-2 (involuntary termination involving a  
 2 delinquent child or a child in need of services);  
 3 (B) IC 31-35-3 (involuntary termination involving an  
 4 individual convicted of a criminal offense); or  
 5 (C) any comparable law described in clause (A) or (B) in any  
 6 other state, territory, or country.
- 7 (5) The child is an abandoned infant, provided that the court:  
 8 (A) has appointed a guardian ad litem or court appointed  
 9 special advocate for the child; and  
 10 (B) after receiving a written report and recommendation from  
 11 the guardian ad litem or court appointed special advocate, and  
 12 after a hearing, finds that reasonable efforts to locate the  
 13 child's parents or reunify the child's family would not be in the  
 14 best interests of the child. **There is a rebuttable presumption**  
 15 **that it is in the best interests of the child to expedite the**  
 16 **availability of the child for adoption by not attempting to**  
 17 **locate the child's parent or reunify the child's family if the**  
 18 **child was left with an emergency medical services provider**  
 19 **who took custody of the child under IC 31-34-2.5.**
- 20 SECTION 23. IC 35-46-1-4, AS AMENDED BY P.L.197-1999,  
 21 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 22 JULY 1, 2000]: Sec. 4. (a) A person having the care of a dependent,  
 23 whether assumed voluntarily or because of a legal obligation, who  
 24 knowingly or intentionally:  
 25 (1) places the dependent in a situation that endangers the  
 26 dependent's life or health;  
 27 (2) abandons or cruelly confines the dependent;  
 28 (3) deprives the dependent of necessary support; or  
 29 (4) deprives the dependent of education as required by law;  
 30 commits neglect of a dependent, a Class D felony.
- 31 (b) However, the offense is:  
 32 (1) a Class C felony if it is committed under subsection (a)(1),  
 33 (a)(2), or (a)(3) and results in bodily injury;  
 34 (2) a Class B felony if it is committed under subsection (a)(1),  
 35 (a)(2), or (a)(3) and results in serious bodily injury; and  
 36 (3) a Class C felony if it is committed under subsection (a)(2) and  
 37 consists of cruel or unusual confinement or abandonment.
- 38 (c) It is a defense **to a prosecution based on an alleged act under**  
 39 **this section** that:  
 40 (1) the accused person **left a dependent child who is not more**  
 41 **than thirty (30) days of age with an emergency medical**  
 42 **provider who took custody of the child under IC 31-34-2.5**  
 43 **when the prosecution is based solely on the alleged act of**  
 44 **leaving the child with the emergency medical provider, and**  
 45 **the alleged act did not result in bodily injury or serious bodily**  
 46 **injury to the child; or**  
 47 (2) **the accused person**, in the legitimate practice of his religious

1 belief, provided treatment by spiritual means through prayer, in  
2 lieu of medical care, to his dependent.  
3 (c) Except for property transferred or received:  
4 (1) under a court order made in connection with a proceeding  
5 under IC 31-15, IC 31-16, IC 31-17, or IC 31-35 (or IC 31-1-11.5  
6 or IC 31-6-5 before their repeal); or  
7 (2) under IC 35-46-1-9(b);  
8 a person who transfers or receives any property in consideration for the  
9 termination of the care, custody, or control of a person's dependent  
10 child commits child selling, a Class D felony."  
11 Renumber all SECTIONS consecutively.  
(Reference is to SB 425 as printed January 28, 2000.)

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Senator CLARK