



January 28, 2000

SENATE BILL No. 425

DIGEST OF SB 425 (Updated January 26, 2000 1:06 PM - DI 51)

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

Synopsis: Various adoption law changes. Expands the general assembly's public policy statement on paternity. Requires that whenever an adoption petition is filed concerning a child who is at least one year of age, notice of the adoption must be given to the child's putative father if the putative father has exercised any visitation with and provided any support for the child within a certain period. Applies even if the putative father has not registered with the putative father registry. Provides that if the putative father of a child who is at least one year of age wishes to contest the child's adoption, the court may not dismiss the adoption petition 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. Specifies that payment for certain adoption related expenses may not exceed an aggregate of \$3,000. Expands the offense of adoption deception to include circumstances in which a person who benefits from adoption related payments does not intend to make an adoptive placement with the prospective adoptive parent from whom the payments are received.

Effective: July 1, 2000.

Clark, Lanane

January 10, 2000, read first time and referred to Committee on Judiciary.
January 27, 2000, reported favorably — Do Pass.

SB 425—LS 6984/DI 76+



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January 28, 2000

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. 425

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

- 4 (1) establishing paternity ~~under this article~~ of a child born out of
5 wedlock;
6 (2) **discouraging the biological father of a child born out of**
7 **wedlock from fostering an emotional relationship with a child**
8 **if the biological father fails to protect the child's rights by**
9 **establishing paternity; and**
10 (3) **recognizing factors beyond a mere biological link to a child**
11 **when considering the right of a biological father who has not**
12 **established paternity of a child to contest the child's adoption.**

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

- 17 (1) The:

SB 425—LS 6984/DI 76+



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- 1 (A) name if known;
 2 (B) sex, race, and age if known, or if unknown, the
 3 approximate age; and
 4 (C) place of birth;
 5 of the child sought to be adopted.
 6 (2) The new name to be given the child if a change of name is
 7 desired.
 8 (3) Whether or not the child possesses real or personal property
 9 and, if so, the value and full description of the property.
 10 (4) The:
 11 (A) name, age, and place of residence of a petitioner for
 12 adoption; and
 13 (B) if married, place and date of their marriage.
 14 (5) The name and place of residence, if known to the petitioner
 15 for adoption, of:
 16 (A) the parent or parents of the child;
 17 (B) if the child is an orphan:
 18 (i) the guardian; or
 19 (ii) the nearest kin of the child if the child does not have a
 20 guardian;
 21 (C) the court or agency of which the child is a ward if the child
 22 is a ward; or
 23 (D) the agency sponsoring the adoption if there is a sponsor.
 24 (6) The time, if any, during which the child lived in the home of
 25 the petitioner for adoption.
 26 (7) Whether the petitioner for adoption has been convicted of:
 27 (A) a felony; or
 28 (B) a misdemeanor relating to the health and safety of
 29 children;
 30 and, if so, the date and description of the conviction.
 31 **(8) That proper notice of the adoption has been given if any of**
 32 **the following applies:**
 33 **(A) IC 31-19-3-1 (actual notice was served on the putative**
 34 **father before the child's birth).**
 35 **(B) IC 31-19-4-1 (the putative father's name and address**
 36 **have been disclosed by the child's mother).**
 37 **(C) IC 31-19-4-2 (the putative father is properly registered**
 38 **with the putative father registry under IC 31-19-5).**
 39 **(D) IC 31-19-4-2.5 (the putative father of a child who is at**
 40 **least one (1) year of age on the date the adoption petition**
 41 **is filed exercised visitation with and provided support to**
 42 **the child).**



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1 **(E) IC 31-19-4-3 (the child was conceived outside Indiana).**
 2 **(9)** Additional information consistent with the purpose and
 3 provisions of this article that is considered relevant to the
 4 proceedings, including whether:

- 5 (A) a petitioner for adoption is seeking aid; and
 6 (B) the willingness of the petitioner for adoption to proceed
 7 with the adoption is conditioned on obtaining aid.

8 SECTION 3. IC 31-19-4-1, AS AMENDED BY P.L.200-1999,
 9 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 10 JULY 1, 2000]: Sec. 1. Except as provided by section 11 of this
 11 chapter, if

12 (†) on or before the date the mother of a child executes a consent
 13 to the child's adoption, the mother has provided an attorney or
 14 agency arranging the adoption with the name and address of the
 15 putative father, ~~and~~

16 (2) the putative father of the child has:
 17 (A) ~~failed or refused to consent to the adoption of the child; or~~
 18 (B) ~~not had the parent-child relationship terminated under~~
 19 ~~IC 31-35 (or IC 31-6-5 before its repeal);~~

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

22 SECTION 4. IC 31-19-4-2, AS AMENDED BY P.L.200-1999,
 23 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 24 JULY 1, 2000]: Sec. 2. Except as provided by section 11 of this
 25 chapter, if:

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

30 (2) the putative father of the child has
 31 (A) ~~failed or refused to consent to the adoption of the child or~~
 32 ~~has not had the parent-child relationship terminated under~~
 33 ~~IC 31-35 (or IC 31-6-5 before its repeal); and~~

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

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

39 SECTION 5. IC 31-19-4-2.5 IS ADDED TO THE INDIANA CODE
 40 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 41 1, 2000]: **Sec. 2.5. (a) Except as provided in section 11 of this**
 42 **chapter, the putative father of a child at least one (1) year of age on**



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1 the date a petition for the child's adoption is filed who has:

- 2 (1) exercised any visitation with the child; and
 3 (2) provided any support for the child;

4 during the twelve (12) months immediately before the adoption
 5 petition is filed must be given notice of the adoption proceedings
 6 under Rule 4.1 of the Indiana Rules of Trial Procedure. However,
 7 if the identity or whereabouts of the putative father is unknown to
 8 the birth mother or unavailable through the putative father
 9 registry, the putative father shall be given notice of the adoption
 10 under Rule 4.13 of the Indiana Rules of Trial Procedure.

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

16 SECTION 6. IC 31-19-4-3 IS AMENDED TO READ AS
 17 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 3. (a) Except as
 18 provided in section 11 of this chapter, if:

- 19 (1) the mother of a child:
 20 (A) informs an attorney or agency arranging the child's
 21 adoption, on or before the date the child's mother executes a
 22 consent to the child's adoption, that the child was conceived
 23 outside Indiana; and
 24 (B) does not disclose to the attorney or agency the name or
 25 address, or both, of the putative father of the child; and
 26 (2) the putative father of the child has
 27 ~~(A) failed or refused to consent to the adoption of the child or~~
 28 ~~has not had the parent-child relationship terminated under~~
 29 ~~IC 31-35 (or IC 31-6-5 before its repeal); and~~
 30 ~~(B) not registered with the putative father registry under~~
 31 ~~IC 31-19-5 within the period under IC 31-19-5-12;~~

32 the attorney or agency shall serve notice of the adoption proceedings
 33 on the putative father by publication under Rule 4.13 of the Indiana
 34 Rules of Trial Procedure.

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

- 38 (1) the child was conceived outside ~~of~~ Indiana as described in
 39 subsection (a); or
 40 (2) the putative father is entitled to notice under section 2.5 of
 41 this chapter.

42 SECTION 7. IC 31-19-4-4, AS AMENDED BY P.L.200-1999,



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1 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
2 JULY 1, 2000]: Sec. 4. Notice of the adoption proceeding required
3 under section **2.5 or** 3 of this chapter shall be given to an unnamed
4 putative father in substantially the following form:

5 "NOTICE TO UNNAMED FATHER

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

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

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

21 If the unnamed putative father:

22 (1) does not file:

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

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

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

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

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

34 **or**

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

39 **(OPTION B: If the unnamed putative father seeks to contest the**
40 **adoption of the child, the unnamed putative father must file a**
41 **motion to contest the adoption in accordance with IC 31-19-10 in**
42 **the above named court within thirty (30) days after the date of**



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1 service of this notice. The notice may be served by publication.

2 If the unnamed putative father files a motion to contest the
3 adoption within thirty (30) days after service of this notice, the
4 court will first determine whether the putative father has failed,
5 without justifiable cause, to significantly communicate with and
6 support the child for at least one (1) year. If the court determines
7 that the putative father has significantly communicated with and
8 supported the child for at least one (1) year, the putative father will
9 then be required to establish paternity of the child before the court
10 will dismiss the adoption petition.

11 If the unnamed putative father:

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

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

19 the above named court shall dismiss the motion to contest the
20 adoption, if any motion has been filed, and shall hear and
21 determine the petition for adoption. The unnamed putative father's
22 consent is irrevocably implied, and the unnamed putative father
23 loses the right to contest the adoption or the validity of the
24 unnamed putative father's implied consent to the adoption. The
25 unnamed putative father then loses the right to establish paternity
26 of the child under IC 31-14.)

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

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

33 SECTION 8. IC 31-19-4-5, AS AMENDED BY P.L.200-1999,
34 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
35 JULY 1, 2000]: Sec. 5. Notice of the adoption proceeding shall be
36 given to:

37 (1) the putative father who is entitled to notice under section 1 or
38 2 of this chapter; or

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

41 "NOTICE TO NAMED FATHER

42 _____ (putative father's name), who has been named the

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1 father of the child born to _____ (mother's name) on
 2 _____ (date), or who claims to be the father of the child born to
 3 _____ (mother's name) on _____ (date), is notified
 4 that a petition for adoption of the child was filed in the office of the
 5 clerk of _____ court, _____ (address of the court).

6 **(The attorney or agency that provides notice of the adoption**
 7 **shall insert OPTION A (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 A: If _____ (putative father's name) seeks to**
 11 **contest the adoption of the child, he must file a motion to contest the**
 12 **adoption in accordance with IC 31-19-10-1 in the above named court,**
 13 **or a paternity action under IC 31-14 not later than thirty (30) days after**
 14 **the date of service of this notice.**

15 If _____ (putative father's name):

16 (1) does not file:

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

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

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

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

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

27 **or**

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

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

37 **If _____ (putative father's name) files a motion to contest the**
 38 **adoption within 30 days after service of this notice, the court will**
 39 **first determine whether the putative father has failed, without**
 40 **justifiable cause, to significantly communicate with and support**
 41 **the child for at least one (1) year. If the court determines that the**
 42 **putative father has significantly communicated with and supported**



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1 the child for at least one (1) year, the putative father will then be
 2 required to establish paternity of the child before the court will
 3 dismiss the adoption petition.

4 If _____ (putative father's name):

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

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

12 the above named court shall dismiss the motion to contest the
 13 adoption, if any motion has been filed, and shall hear and
 14 determine the petition for adoption. His consent will be irrevocably
 15 implied, and the unnamed putative father loses the right to contest
 16 the adoption or the validity of the unnamed putative father's
 17 implied consent to the adoption. He will lose the right to establish
 18 paternity of the child under IC 31-14.)

19 Nothing _____ (mother's name) or anyone else says to
 20 _____ (putative father's name) relieves _____
 21 (putative father's name) of his obligations under this notice.

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

27 SECTION 9. IC 31-19-4-6 IS AMENDED TO READ AS
 28 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 6. Except as provided
 29 in section 2.5 or 3 of this chapter, if:

30 (1) on or before the date the mother of a child executes a consent
 31 to the child's adoption, the mother does not disclose to the
 32 attorney or agency arranging the adoption the identity or address,
 33 or both, of the putative father; and

34 (2) the putative father has not registered with the putative father
 35 registry under IC 31-19-5 within the period under IC 31-19-5-12;
 36 the putative father is not entitled to notice of the adoption.

37 SECTION 10. IC 31-19-5-5 IS AMENDED TO READ AS
 38 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 5. **Except as provided**
 39 **in IC 31-19-4-2.5 and IC 31-19-4-3**, if, on or before the date the
 40 mother of a child executes a consent to the child's adoption, the mother
 41 does not disclose to an attorney or agency that:

42 (1) is arranging; or



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1 (2) may arrange;
 2 an adoption of the child the name or address, or both, of the putative
 3 father of the child, the putative father must register under this chapter
 4 to entitle the putative father to notice of the child's adoption.

5 SECTION 11. IC 31-19-5-5.5 IS ADDED TO THE INDIANA
 6 CODE AS A NEW SECTION TO READ AS FOLLOWS
 7 [EFFECTIVE JULY 1, 2000]: **Sec. 5.5. (a) This section applies to a**
 8 **putative father regardless of whether the putative father registers**
 9 **in accordance with this chapter (or IC 31-3-1.5 before its repeal).**

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

16 SECTION 12. IC 31-19-5-6 IS AMENDED TO READ AS
 17 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 6. **Except as provided**
 18 **in IC 31-19-4-2.5 and IC 31-19-4-3**, this chapter does not relieve a
 19 man who is presumed to be a father under 31-14-7-2 from the
 20 obligation of registering in accordance with this chapter to be entitled
 21 to notice of an adoption of a child for whom the man may be the
 22 presumed father.

23 SECTION 13. IC 31-19-5-12 IS AMENDED TO READ AS
 24 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 12. (a) **Except as**
 25 **provided in IC 31-19-4-2.5 and IC 31-19-4-3**, to be entitled to notice
 26 of an adoption, ~~under IC 31-19-3 or IC 31-19-4~~, a putative father must
 27 register with the state department of health under section 5 of this
 28 chapter not later than:

- 29 (1) thirty (30) days after the child's birth; or
 30 (2) the date of the filing of a petition for the child's adoption;
 31 whichever occurs later.

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

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

41 SECTION 15. IC 31-19-9-10 IS AMENDED TO READ AS
 42 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 10. A court shall



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- 1 determine that consent to adoption is not required from a parent if:
- 2 (1) the parent is convicted of and incarcerated at the time of the
- 3 filing of a petition for adoption for:
- 4 (A) murder (IC 35-42-1-1);
- 5 (B) causing suicide (IC 35-42-1-2);
- 6 (C) voluntary manslaughter (IC 35-42-1-3);
- 7 (D) rape (IC 35-42-4-1);
- 8 (E) criminal deviate conduct (IC 35-42-4-2);
- 9 (F) child molesting as a Class A or Class B felony
- 10 (IC 35-42-4-3);
- 11 (G) incest as a Class B felony (IC 35-46-1-3);
- 12 (H) neglect of a dependent as a Class B felony (IC 35-46-1-4);
- 13 (I) battery of a child as a Class C felony (IC 35-42-2-1(a)(3));
- 14 **or**
- 15 (J) an attempt under IC 35-41-5-1 to commit an offense
- 16 described in clauses (A) through (I); **or**
- 17 **(K) a crime in another state that is substantially similar to**
- 18 **a crime described in clauses (A) through (J).**
- 19 (2) the child or the child's sibling, half-blood sibling, or
- 20 step-sibling of the parent's current marriage is the victim of the
- 21 offense; and
- 22 (3) after notice to the parent and a hearing, the court determines
- 23 that dispensing with the parent's consent to adoption is in the
- 24 child's best interests.
- 25 SECTION 16. IC 31-19-9-12, AS AMENDED BY P.L.200-1999,
- 26 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 27 JULY 1, 2000]: Sec. 12. A putative father's consent to adoption is
- 28 irrevocably implied without further court action if:
- 29 (1) the putative father **of a child who is less than one (1) year of**
- 30 **age on the date the petition for the child's adoption is filed**
- 31 **(+) fails to does not** file:
- 32 (A) a motion to contest the adoption in accordance with
- 33 IC 31-19-10; ~~and~~ **or**
- 34 (B) a paternity action under IC 31-14;
- 35 within thirty (30) days after service of notice under IC 31-19-4;
- 36 **(2) the putative father of a child who is at least one (1) year of**
- 37 **age on the date the petition for the child's adoption is filed**
- 38 **does not:**
- 39 (A) **file a motion to contest the adoption in accordance with**
- 40 **IC 31-19-10 within thirty (30) days after service of notice**
- 41 **under IC 31-19-4; and**
- 42 (B) **establish paternity within a reasonable period under**

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1 **IC 31-14, if allowed to do so by the court under**
 2 **IC 31-19-10-5.5(c);**
 3 ~~(2)~~ (3) having filed a motion to contest the adoption in accordance
 4 with IC 31-19-10, fails to appear at the hearing set to contest the
 5 adoption **or prevail on the motion to contest the adoption;**
 6 ~~(3)~~ (4) having filed a paternity action under IC 31-14, fails to
 7 establish paternity in the action; or
 8 ~~(4)~~ (5) is required to but fails to register with the putative father
 9 registry established by IC 31-19-5 within the period under
 10 IC 31-19-5-12.

11 SECTION 17. IC 31-19-10-5.5 IS ADDED TO THE INDIANA
 12 CODE AS A NEW SECTION TO READ AS FOLLOWS
 13 [EFFECTIVE JULY 1, 2000]: **Sec. 5.5. (a) This section applies to a**
 14 **motion to contest an adoption that is filed by a putative father**
 15 **concerning a child who is at least one (1) year of age on the date the**
 16 **adoption petition is filed.**

17 **(b) The court shall deny a putative father's motion to contest the**
 18 **adoption under section 6(2) of this chapter if the court determines**
 19 **that the putative father has failed, without justifiable cause, to**
 20 **significantly communicate with and support the child for at least**
 21 **one (1) year when able to do so. If the putative father has made**
 22 **only token efforts to support or communicate with the child, the**
 23 **court may find that the putative father has failed to significantly**
 24 **communicate with and support the child. It is not a defense that the**
 25 **putative father was unaware of the child.**

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

- 30 **(1) the putative father files a paternity action under IC 31-14**
 31 **not more than ten (10) days after the court determines that**
 32 **the putative father has significantly communicated with and**
 33 **supported the child; and**
 34 **(2) the putative father establishes paternity of the child within**
 35 **a reasonable period determined under IC 31-14-21.**

36 SECTION 18. IC 31-19-11-1, AS AMENDED BY P.L.200-1999,
 37 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 38 JULY 1, 2000]: Sec. 1. (a) Whenever the court has heard the evidence
 39 and finds that:

- 40 (1) the adoption requested is in the best interest of the child;
 41 (2) the petitioner or petitioners for adoption are of sufficient
 42 ability to rear the child and furnish suitable support and



1 education;

2 (3) the report of the investigation and recommendation under

3 IC 31-19-8-5 has been filed;

4 (4) the attorney or agency arranging an adoption has filed with the

5 court an affidavit prepared by the state department of health under

6 IC 31-19-5-16 indicating whether a man is entitled to notice of the

7 adoption because the man has registered with the putative father

8 registry in accordance with IC 31-19-5;

9 (5) proper notice, arising under subdivision (4), as described in

10 **IC 31-19-2-6(8)**, if notice is necessary, of the adoption has been

11 given;

12 (6) the attorney or agency has filed with the court an affidavit

13 prepared by the state department of health under:

14 (A) IC 31-19-6 indicating whether a record of a paternity

15 determination; or

16 (B) IC 16-37-2-2(g) indicating whether a paternity affidavit

17 executed under IC 16-37-2-2.1;

18 has been filed in relation to the child;

19 (7) proper consent, if consent is necessary, to the adoption has

20 been given; and

21 (8) the petitioner for adoption is not prohibited from adopting the

22 child as the result of an inappropriate criminal history described

23 in subsection (c);

24 the court shall grant the petition for adoption and enter an adoption

25 decree.

26 (b) A court may not grant an adoption unless the department's

27 affidavit under IC 31-19-5-16 is filed with the court as provided under

28 subsection (a)(4).

29 (c) A conviction of a felony or a misdemeanor related to the health

30 and safety of a child by a petitioner for adoption is a permissible basis

31 for the court to deny the petition for adoption. In addition, the court

32 may not grant an adoption if a petitioner for adoption has been

33 convicted of any of the felonies described as follows:

34 (1) Murder (IC 35-42-1-1).

35 (2) Causing suicide (IC 35-42-1-2).

36 (3) Assisting suicide (IC 35-42-1-2.5).

37 (4) Voluntary manslaughter (IC 35-42-1-3).

38 (5) Reckless homicide (IC 35-42-1-5).

39 (6) Battery as a felony (IC 35-42-2-1).

40 (7) Aggravated battery (IC 35-42-2-1.5).

41 (8) Kidnapping (IC 35-42-3-2).

42 (9) Criminal confinement (IC 35-42-3-3).

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- 1 (10) A felony sex offense under IC 35-42-4.
- 2 (11) Carjacking (IC 35-42-5-2).
- 3 (12) Arson (IC 35-43-1-1).
- 4 (13) Incest (IC 35-46-1-3).
- 5 (14) Neglect of a dependent (IC 35-46-1-4(a)(1) and
- 6 IC 35-46-1-4(a)(2)).
- 7 (15) Child selling (IC 35-46-1-4(b)).
- 8 (16) A felony involving a weapon under IC 35-47.
- 9 (17) A felony relating to controlled substances under IC 35-48-4.
- 10 (18) An offense relating to material or a performance that is
- 11 harmful to minors or obscene under IC 35-49-3.
- 12 (19) A felony that is substantially equivalent to a felony listed in
- 13 subdivisions (1) through (18) for which the conviction was
- 14 entered in another state.

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

19 SECTION 19. IC 35-46-1-9, AS AMENDED BY P.L.200-1999,
 20 SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 21 JULY 1, 2000]: Sec. 9. (a) Except as provided in subsection (b), a
 22 person who, with respect to an adoption, transfers or receives any
 23 property in connection with the waiver of parental rights, the
 24 termination of parental rights, the consent to adoption, or the petition
 25 for adoption commits profiting from an adoption, a Class D felony.

- 26 (b) This section does not apply to the transfer or receipt of:
 - 27 (1) reasonable attorney's fees;
 - 28 (2) hospital and medical expenses concerning childbirth and
 - 29 pregnancy incurred by the adopted person's birth mother;
 - 30 (3) reasonable charges and fees levied by a child placing agency
 - 31 licensed under IC 12-17.4 or by a county office of family and
 - 32 children;
 - 33 (4) reasonable expenses for psychological counseling relating to
 - 34 adoption incurred by the adopted person's birth parents;
 - 35 (5) reasonable costs of housing, utilities, and phone service for the
 - 36 adopted person's birth mother during the second ~~or~~ **and** third
 - 37 trimester of pregnancy and not more than six (6) weeks after
 - 38 childbirth;
 - 39 (6) reasonable costs of maternity clothing for the adopted person's
 - 40 birth mother;
 - 41 (7) reasonable travel expenses incurred by the adopted person's
 - 42 birth mother that relate to the pregnancy or adoption;

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1 (8) any additional itemized necessary living expenses for the
 2 adopted person's birth mother during the second or third trimester
 3 of pregnancy and not more than six (6) weeks after childbirth, not
 4 listed in subdivisions (5) through (7) in an amount not to exceed
 5 one thousand dollars (\$1,000); or
 6 (9) other charges and fees approved by the court supervising the
 7 adoption, including reimbursement of not more than actual wages
 8 lost as a result of the inability of the adopted person's birth mother
 9 to work at her regular, existing employment due to a medical
 10 condition, excluding a psychological condition, if:

- 11 (A) the attending physician of the adopted person's birth
- 12 mother has ordered or recommended that the adopted person's
- 13 birth mother discontinue her employment; and
- 14 (B) the medical condition and its direct relationship to the
- 15 pregnancy of the adopted person's birth mother are
- 16 documented by her attending physician.

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

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

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

37 (d) An attorney or licensed child placing agency shall inform a birth
 38 mother of the penalties for committing adoption deception under
 39 section 9.5 of this chapter before the attorney or agency transfers a
 40 payment for adoption related expenses under subsection (b) in relation
 41 to the birth mother.

42 (e) The limitations in this section apply regardless of the state or

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country in which the adoption is finalized.

SECTION 20. IC 35-46-1-9.5, AS ADDED BY P.L.200-1999, SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 9.5. **(a) As used in this section, "person" refers to a birth mother or a woman who holds herself out to be a birth mother.**

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

(1) when the person knows or should have known that the person is not pregnant; or

(2) by or on behalf of a prospective adoptive parent:

(A) who is unaware that at the same time another prospective adoptive parent is also incurring adoption related expenses in an effort to adopt the same child; **or**

(B) when the person does not intend to make an adoptive placement with the prospective adoptive parent;

commits adoption deception, a Class A misdemeanor. In addition to any other penalty imposed under this section, a court may order the 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.

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SENATE MOTION

Mr. President: I move that Senator Lanane be added as second author of Senate Bill 425.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 425, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 425 as introduced.)

BRAY, Chairperson

Committee Vote: Yeas 8, Nays 0.

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