



Reprinted  
February 2, 2000

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## SENATE BILL No. 425

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DIGEST OF SB 425 (Updated February 1, 2000 2:55 PM - DI 69)

**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 before a court may deny a motion filed by a putative father of a child to contest an adoption, the court must: (1) require the putative father to show sufficient evidence of a biological relationship with the child through DNA testing; and (2) if the court determines that the DNA results show a biological relationship between the putative father and the child, the court must then determine whether the putative father has failed, without justifiable cause, to significantly communicate with and support the child for at least one year. 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.

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### Clark, Lanane

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January 10, 2000, read first time and referred to Committee on Judiciary.  
January 27, 2000, reported favorably — Do Pass.  
February 1, 2000, read second time, amended, ordered engrossed.

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SB 425—LS 6984/DI 76+



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February 2, 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 apply:**  
 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) This section applies only to an adoption of a  
 42          child who is at least one (1) year of age on the date the petition for**



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1 adoption is filed.

2 (b) Except as provided in section 11 of this chapter, notice of the  
3 adoption must be given to a putative father under Rule 4.1 of the  
4 Indiana Rules of Trial Procedure if there is reason to believe that  
5 the putative father has significantly communicated with and  
6 supported the child to the extent that the putative father may  
7 prevail on a motion to contest the adoption as described in section  
8 5.5(b) of this chapter.

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

14 (d) If the identity or whereabouts of the putative father who  
15 would otherwise be entitled to the notice in accordance with  
16 subsection (b) is undisclosed by the birth mother or unavailable  
17 through the putative father registry, the putative father shall be  
18 given notice of the adoption by publication under Rule 4.13 of the  
19 Indiana Rules of Trial Procedure.

20 (e) If the agency or attorney obtains an affidavit from the birth  
21 mother stating that no putative father has significantly supported  
22 and communicated with the child as described in subsection (b), the  
23 attorney or agency may provide notice of the adoption by  
24 publication under Rule 4.13 to an undisclosed putative father in the  
25 county where:

26 (1) the child resided during the six (6) months immediately  
27 preceding the filing of the adoption petition if the child has  
28 resided in only one (1) county during the six (6) month period  
29 described under this subdivision; or

30 (2) the child has resided during the longest period of the time  
31 during the twelve (12) months immediately preceding the  
32 filing of the adoption petition.

33 (f) The failure of a putative father to file a motion to contest the  
34 adoption within thirty (30) days after service of notice under this  
35 section constitutes the putative father's irrevocably implied consent  
36 to the child's adoption. The putative father loses the right to  
37 further notice of the adoption and loses the right to contest the  
38 adoption or the validity of the putative father's implied consent to  
39 the adoption. The putative father also loses the right to establish  
40 paternity of the child under IC 31-14.

41 SECTION 6. IC 31-19-4-3 IS AMENDED TO READ AS  
42 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 3. (a) Except as

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1 **provided in section 11 of this chapter, if:**

2 (1) the mother of a child:

3 (A) informs an attorney or agency arranging the child's  
4 adoption, on or before the date the child's mother executes a  
5 consent to the child's adoption, that the child was conceived  
6 outside Indiana; and

7 (B) does not disclose to the attorney or agency the name or  
8 address, or both, of the putative father of the child; and

9 (2) the putative father of the child has

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

13 ~~(B) not registered with the putative father registry under~~  
14 ~~IC 31-19-5 within the period under IC 31-19-5-12;~~

15 the attorney or agency shall serve notice of the adoption proceedings  
16 on the putative father by publication under Rule 4.13 of the Indiana  
17 Rules of Trial Procedure.

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

21 (1) the child was conceived outside ~~of~~ Indiana as described in  
22 subsection (a); **or**

23 **(2) the putative father is entitled to notice under section 2.5 of**  
24 **this chapter.**

25 SECTION 7. IC 31-19-4-4, AS AMENDED BY P.L.200-1999,  
26 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
27 JULY 1, 2000]: Sec. 4. Notice of the adoption proceeding required  
28 under section **2.5 or** 3 of this chapter shall be given to an unnamed  
29 putative father in substantially the following form:

30 "NOTICE TO UNNAMED FATHER

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

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

40 **(OPTION A:** If the unnamed putative father seeks to contest the  
41 adoption of the child, the unnamed putative father must file a motion  
42 to contest the adoption in accordance with IC 31-19-10-1 in the above



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1 named court or a paternity action under IC 31-14 within thirty (30)  
 2 days after the date of service of this notice. This notice may be served  
 3 by publication.

4 If the unnamed putative father:

5 (1) does not file:

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

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

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

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

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

17 or

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

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

27 **If the putative father files a motion to contest the adoption**  
 28 **within thirty (30) days after service of this notice, the court will**  
 29 **first require the putative father to show sufficient evidence of a**  
 30 **biological relationship with the child through DNA testing. If the**  
 31 **court determines that the DNA results show a biological**  
 32 **relationship between the putative father and the child, the court**  
 33 **will then determine whether 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 **If the unnamed putative father:**

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

39 **(2) files a motion to contest the adoption within thirty (30)**  
 40 **days after service of this notice, and the court determines that**  
 41 **the putative father has failed, without justifiable cause, to**  
 42 **significantly communicate and support the child for at least**

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1           one (1) year;  
 2           the above named court shall deny the motion to contest the  
 3           adoption, if any motion has been filed, and shall hear and  
 4           determine the petition for adoption. The unnamed putative father's  
 5           consent is irrevocably implied, and the unnamed putative father  
 6           loses the right to contest the adoption or the validity of the  
 7           unnamed putative father's implied consent to the adoption. The  
 8           unnamed putative father then loses the right to establish paternity  
 9           of the child under IC 31-14.)

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

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

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

20           (1) the putative father who is entitled to notice under section 1 or  
 21           2 of this chapter; or

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

24                           "NOTICE TO NAMED FATHER

25          \_\_\_\_\_ (putative father's name), who has been named the  
 26          father of the child born to \_\_\_\_\_ (mother's name) on  
 27          \_\_\_\_\_ (date), or who claims to be the father of the child born to  
 28          \_\_\_\_\_ (mother's name) on \_\_\_\_\_ (date), is notified  
 29          that a petition for adoption of the child was filed in the office of the  
 30          clerk of \_\_\_\_\_ court, \_\_\_\_\_ (address of the 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 \_\_\_\_\_ (putative father's name) seeks to  
 36          contest the adoption of the child, he must file a motion to contest the  
 37          adoption in accordance with IC 31-19-10-1 in the above named court,  
 38          or a paternity action under IC 31-14 not later than thirty (30) days after  
 39          the date of service of this notice.

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

41           (1) does not file:

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



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1 (B) a paternity action under IC 31-14;  
 2 within thirty (30) days after service of this notice; or  
 3 (2) after filing a paternity action under IC 31-14 fails to establish  
 4 paternity;

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

10 **or**

11 **(The attorney or agency that provides notice of the adoption**  
 12 **shall insert OPTION B (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 B: If \_\_\_\_\_ (putative father's name) seeks to**  
 16 **contest the adoption of the child, he must file a motion to contest**  
 17 **the adoption in accordance with IC 31-19-10 in the above named**  
 18 **court not later than thirty (30) days after the date of service of this**  
 19 **notice.**

20 **If \_\_\_\_\_ (putative father's name) files a motion to contest the**  
 21 **adoption within 30 days after service of this notice, the court will**  
 22 **first require the putative father to show sufficient evidence of a**  
 23 **biological relationship with the child through DNA testing. If the**  
 24 **court determines that the DNA results show a biological**  
 25 **relationship between the putative father and the child, the court**  
 26 **will then determine whether the putative father has failed, without**  
 27 **justifiable cause, to significantly communicate with and support**  
 28 **the child for at least one (1) year.**

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

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

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

37 **the above named court shall dismiss the motion to contest the**  
 38 **adoption, if any motion has been filed, and shall hear and**  
 39 **determine the petition for adoption. His consent will be irrevocably**  
 40 **implied, and \_\_\_\_\_ (putative father's name) loses the right to**  
 41 **contest the adoption or the validity of \_\_\_\_\_ (putative father's**  
 42 **name) implied consent to the adoption. He will lose the right to**



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1 **establish paternity of the child under IC 31-14.)**

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

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

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

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

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

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

25 (1) is arranging; or

26 (2) may arrange;

27 an adoption of the child the name or address, or both, of the putative  
28 father of the child, the putative father must register under this chapter  
29 to entitle the putative father to notice of the child's adoption.

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

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

41 SECTION 12. IC 31-19-5-6 IS AMENDED TO READ AS  
42 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 6. **Except as provided**



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1 **in IC 31-19-4-2.5 and IC 31-19-4-3**, this chapter does not relieve a  
 2 man who is presumed to be a father under 31-14-7-2 from the  
 3 obligation of registering in accordance with this chapter to be entitled  
 4 to notice of an adoption of a child for whom the man may be the  
 5 presumed father.

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

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

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

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

24 SECTION 15. IC 31-19-9-10 IS AMENDED TO READ AS  
 25 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 10. A court shall  
 26 determine that consent to adoption is not required from a parent if:

- 27 (1) the parent is convicted of and incarcerated at the time of the  
 28 filing of a petition for adoption for:  
 29 (A) murder (IC 35-42-1-1);  
 30 (B) causing suicide (IC 35-42-1-2);  
 31 (C) voluntary manslaughter (IC 35-42-1-3);  
 32 (D) rape (IC 35-42-4-1);  
 33 (E) criminal deviate conduct (IC 35-42-4-2);  
 34 (F) child molesting as a Class A or Class B felony  
 35 (IC 35-42-4-3);  
 36 (G) incest as a Class B felony (IC 35-46-1-3);  
 37 (H) neglect of a dependent as a Class B felony (IC 35-46-1-4);  
 38 (I) battery of a child as a Class C felony (IC 35-42-2-1(a)(3));  
 39 **or**  
 40 (J) an attempt under IC 35-41-5-1 to commit an offense  
 41 described in clauses (A) through (I); **or**  
 42 (K) **a crime in another state that is substantially similar to**



- 1                   **a crime described in clauses (A) through (J).**  
 2                   (2) the child or the child's sibling, half-blood sibling, or  
 3                   step-sibling of the parent's current marriage is the victim of the  
 4                   offense; and  
 5                   (3) after notice to the parent and a hearing, the court determines  
 6                   that dispensing with the parent's consent to adoption is in the  
 7                   child's best interests.

8                   SECTION 16. IC 31-19-9-12, AS AMENDED BY P.L.200-1999,  
 9                   SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 10                  JULY 1, 2000]: Sec. 12. A putative father's consent to adoption is  
 11                  irrevocably implied without further court action if:

- 12                  **(1) the putative father of a child who is less than one (1) year of**  
 13                  **age on the date the petition for the child's adoption is filed**  
 14                  ~~(1)~~ **fails to does not** file:  
 15                      (A) a motion to contest the adoption in accordance with  
 16                      IC 31-19-10; ~~and~~ **or**  
 17                      (B) a paternity action under IC 31-14;  
 18                  within thirty (30) days after service of notice under IC 31-19-4;  
 19                  **(2) the putative father of a child who is at least one (1) year of**  
 20                  **age on the date the petition for the child's adoption is filed**  
 21                  **does not file a motion to contest the adoption in accordance**  
 22                  **with IC 31-19-10 within thirty (30) days after service of notice**  
 23                  **under IC 31-19-4.**  
 24                  ~~(2)~~ **(3) having filed a motion to contest the adoption in accordance**  
 25                  with IC 31-19-10, fails to appear at the hearing set to contest the  
 26                  adoption **or prevail on the motion to contest the adoption;**  
 27                  ~~(3)~~ **(4) having filed a paternity action under IC 31-14, fails to**  
 28                  establish paternity in the action; or  
 29                  ~~(4)~~ **(5) is required to but fails to register with the putative father**  
 30                  registry established by IC 31-19-5 within the period under  
 31                  IC 31-19-5-12.

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

38                  **(b) Whenever a putative father files a motion to contest under**  
 39                  **this section, an affidavit must be attached to the motion that fully**  
 40                  **and specifically describes the financial support and visitation that**  
 41                  **the putative father has provided with respect to the child. The**  
 42                  **court shall deny the motion to contest without a hearing if the**

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1 court finds that financial support and visitation alleged in the  
2 affidavit would not meet the standard of significant communication  
3 and support that is necessary for the putative father to prevail on  
4 the motion to contest under subsection (d).

5 (c) Before the court may make a determination under subsection  
6 (d), the putative father must undergo DNA testing and submit the  
7 results to the court in a timely manner. Based upon the DNA  
8 results, the court must determine whether a sufficient probability  
9 exists that the putative father is the child's biological father. If the  
10 court determines that the DNA results do not show a sufficient  
11 probability of a biological relationship between the putative father  
12 and the child, the court shall deny the putative father's motion to  
13 contest the adoption.

14 (d) Subject to subsection (e), even if the court determines that  
15 sufficient probability exists to show a biological relationship  
16 between the putative father and the child, the court shall deny the  
17 putative father's motion to contest the adoption under section 6(2)  
18 of this chapter if the court determines that the putative father has  
19 failed, without justifiable cause, to significantly communicate with  
20 and support the child for at least one (1) year when able to do so.  
21 If the putative father has made only token efforts to support or  
22 communicate with the child, the court shall find that the putative  
23 father has failed to significantly communicate with and support the  
24 child. It is not a defense that the putative father was unaware of the  
25 child.

26 (e) The sole purpose of requiring DNA testing under this section  
27 is to afford a putative father who is able to show a biological  
28 relationship to the child with standing to proceed with the motion  
29 to contest the adoption. The court may not consider the biological  
30 relationship between the putative father and the child in  
31 determining the motion to contest. The court's determination of the  
32 motion to contest must be based solely upon whether the putative  
33 father has significantly communicated with and supported the  
34 child as described in subsection (d).

35 (f) In any proceeding under this section, the putative father has  
36 the burden of proof.

37 (g) If the court denies the putative father's motion to contest the  
38 adoption under subsection (d), the putative father is barred from  
39 establishing paternity under IC 31-14, regardless of the putative  
40 father's DNA results.

41 (h) Nothing in this section shall be construed to establish a  
42 putative father's paternity of the child.

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1 SECTION 18. IC 31-19-10-6.5 IS ADDED TO THE INDIANA  
 2 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 3 [EFFECTIVE JULY 1, 2000]: **Sec. 6.5. Whenever a court dismisses**  
 4 **a petition for the adoption of a child, any written consent to the**  
 5 **child's adoption:**

6 (1) **is null and void; and**

7 (2) **may not be used against the previously consenting parent**  
 8 **in a subsequent proceeding relating to the child's custody.**

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

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

14 (2) the petitioner or petitioners for adoption are of sufficient  
 15 ability to rear the child and furnish suitable support and  
 16 education;

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

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

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

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

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

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

33 has been filed in relation to the child;

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

36 (8) the petitioner for adoption is not prohibited from adopting the  
 37 child as the result of an inappropriate criminal history described  
 38 in subsection (c);

39 the court shall grant the petition for adoption and enter an adoption  
 40 decree.

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

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1 subsection (a)(4).

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

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

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

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

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

- 42 (1) reasonable attorney's fees;



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

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

38 (c) Except as provided in this subsection, payments made under  
 39 subsection (b)(5) through (b)(9) may not exceed **an aggregate of** three  
 40 thousand dollars (\$3,000), **regardless of how many prospective**  
 41 **adoptive parents attempt to adopt the birth mother's child**, and  
 42 must be disclosed to the court supervising the adoption. The amounts

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1 paid under subsection (b)(5) through (b)(9) may exceed three thousand  
 2 dollars (\$3,000) to the extent that a court in Indiana with jurisdiction  
 3 over the child who is the subject of the adoption approves the expenses  
 4 after determining that:

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

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

10 (d) An attorney or licensed child placing agency shall inform a birth  
 11 mother of the penalties for committing adoption deception under  
 12 section 9.5 of this chapter before the attorney or agency transfers a  
 13 payment for adoption related expenses under subsection (b) in relation  
 14 to the birth mother.

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

17 SECTION 21. IC 35-46-1-9.5, AS ADDED BY P.L.200-1999,  
 18 SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 19 JULY 1, 2000]: Sec. 9.5. **(a) As used in this section, "person" refers**  
 20 **to a birth mother or a woman who holds herself out to be a birth**  
 21 **mother.**

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

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

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

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

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

33 commits adoption deception, a Class A misdemeanor. In addition to  
 34 any other penalty imposed under this section, a court may order the  
 35 person who commits adoption deception to make restitution to a  
 36 prospective adoptive parent, attorney, or licensed child placing agency  
 37 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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## SENATE MOTION

Mr. President: I move that Senate Bill 425 be amended to read as follows:

Page 2, line 32, delete "applies" and insert "**apply**".

Page 3, delete lines 39 through 42, begin a new paragraph and insert:

"SECTION 5. IC 31-19-4-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 2.5. (a) This section applies only to an adoption of a child who is at least one (1) year of age on the date the petition for adoption is filed.**

**(b) Except as provided in section 11 of this chapter, notice of the adoption must be given to a putative father under Rule 4.1 of the Indiana Rules of Trial Procedure if there is reason to believe that the putative father has significantly communicated with and supported the child to the extent that the putative father may prevail on a motion to contest the adoption as described in section 5.5(b) of this chapter.**

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

**(d) If the identity or whereabouts of the putative father who would otherwise be entitled to the notice in accordance with subsection (b) is undisclosed by the birth mother or unavailable through the putative father registry, the putative father shall be given notice of the adoption by publication under Rule 4.13 of the Indiana Rules of Trial Procedure.**

**(e) If the agency or attorney obtains an affidavit from the birth mother stating that no putative father has significantly supported and communicated with the child as described in subsection (b), the attorney or agency may provide notice of the adoption by publication under Rule 4.13 to an undisclosed putative father in the county where:**

- (1) the child resided during the six (6) months immediately preceding the filing of the adoption petition if the child has resided in only one (1) county during the six (6) month period described under this subdivision; or**
- (2) the child has resided during the longest period of the time during the twelve (12) months immediately preceding the filing of the adoption petition.**



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(f) The failure of a putative father to file a motion to contest the adoption within thirty (30) days after service of notice under this section constitutes the putative father's irrevocably implied consent to the child's adoption. The putative father loses the right to further notice of the adoption and loses the right to contest the adoption or the validity of the putative father's implied consent to the adoption. The putative father also loses the right to establish paternity of the child under IC 31-14."

Page 4, delete lines 1 through 15.

Page 6, delete lines 2 through 10, begin a new paragraph and insert:

**"If the putative father files a motion to contest the adoption within thirty (30) days after service of this notice, the court will first require the putative father to show sufficient evidence of a biological relationship with the child through DNA testing. If the court determines that the DNA results show a biological relationship between the putative father and the child, the court will then determine whether the putative father has failed, without justifiable cause, to significantly communicate with and support the child for at least one (1) year."**

Page 6, line 19, delete "dismiss" and insert "**deny**".

Page 7, delete lines 39 through 42, and insert "**first require the putative father to show sufficient evidence of a biological relationship with the child through DNA testing. If the court determines that the DNA results show a biological relationship between the putative father and the child, the court will then determine whether the putative father has failed, without justifiable cause, to significantly communicate with and support the child for at least one (1) year."**

Page 8, delete lines 1 through 3.

Page 8, line 15, delete "the unnamed putative father" and insert "**\_\_\_\_\_ (putative father's name)**".

Page 8, line 16, delete "the unnamed putative father" and insert "**\_\_\_\_\_ (putative father's name)**".

Page 10, line 38, delete ":".

Page 10, line 39, delete "(A)".

Page 10, run in lines 38 and 39.

Page 10, line 41, delete "; and" and insert ".".

Page 10, delete line 42.

Page 11, delete lines 1 through 2.

Page 11, delete lines 11 through 35, begin a new paragraph and insert:

**"SECTION 17. IC 31-19-10-5.5 IS ADDED TO THE INDIANA**



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CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 5.5 (a) This section applies to a motion to contest an adoption that is filed by a putative father concerning a child who is at least one (1) year of age on the date the adoption petition is filed.**

**(b) Whenever a putative father files a motion to contest under this section, an affidavit must be attached to the motion that fully and specifically describes the financial support and visitation that the putative father has provided with respect to the child. The court shall deny the motion to contest without a hearing if the court finds that financial support and visitation alleged in the affidavit would not meet the standard of significant communication and support that is necessary for the putative father to prevail on the motion to contest under subsection (d).**

**(c) Before the court may make a determination under subsection (d), the putative father must undergo DNA testing and submit the results to the court in a timely manner. Based upon the DNA results, the court must determine whether a sufficient probability exists that the putative father is the child's biological father. If the court determines that the DNA results do not show a sufficient probability of a biological relationship between the putative father and the child, the court shall deny the putative father's motion to contest the adoption.**

**(d) Subject to subsection (e), even if the court determines that sufficient probability exists to show a biological relationship between the putative father and the child, the court shall deny the putative father's motion to contest the adoption under section 6(2) of this chapter if the court determines that the putative father has failed, without justifiable cause, to significantly communicate with and support the child for at least one (1) year when able to do so. If the putative father has made only token efforts to support or communicate with the child, the court shall find that the putative father has failed to significantly communicate with and support the child. It is not a defense that the putative father was unaware of the child.**

**(e) The sole purpose of requiring DNA testing under this section is to afford a putative father who is able to show a biological relationship to the child with standing to proceed with the motion to contest the adoption. The court may not consider the biological relationship between the putative father and the child in determining the motion to contest. The court's determination of the motion to contest must be based solely upon whether the putative**

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father has significantly communicated with and supported the child as described in subsection (d).

(f) In any proceeding under this section, the putative father has the burden of proof.

(g) If the court denies the putative father's motion to contest the adoption under subsection (d), the putative father is barred from establishing paternity under IC 31-14, regardless of the putative father's DNA results.

(h) Nothing in this section shall be construed to establish a putative father's paternity of the child.

SECTION 18. IC 31-19-10-6.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 6.5. Whenever a court dismisses a petition for the adoption of a child, any written consent to the child's adoption:**

- (1) is null and void; and
- (2) may not be used against the previously consenting parent in a subsequent proceeding relating to the child's custody."

Renumber all SECTIONS consecutively.

(Reference is to SB 425 as printed January 28, 2000.)

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