



February 14, 2003

SENATE BILL No. 36

DIGEST OF SB 36 (Updated February 12, 2003 5:34 PM - DI 106)

Citations Affected: IC 20-8.1; IC 31-34; IC 31-40; noncode.

Synopsis: Juvenile court jurisdiction for school suspension. Permits the prosecuting attorney or county office of family and children to file a petition alleging that a child suspended or expelled from school is a child in need of services (CHINS) if the: (1) school corporation; (2) prosecuting attorney; (3) county office of family and children; and (4) judge of the court with juvenile jurisdiction; have agreed to the referral of suspended or expelled children to the juvenile court for a CHINS determination. Requires the school corporation to pay the costs of services ordered by the juvenile court if: (1) the child is found to be a CHINS; and (2) there is an agreement to refer suspended or expelled children to the juvenile court for a CHINS determination. Specifies that a school is not required to pay more than 90% of the tuition support the school corporation receives for services ordered by the juvenile court.

Effective: July 1, 2003.

Kenley, Bowser, Broden, Drozda

January 7, 2003, read first time and referred to Committee on Rules and Legislative Procedure.
February 3, 2003, amended; reassigned to Committee on Judiciary.
February 13, 2003, amended, reported favorably — Do Pass; reassigned to Committee on Education and Career Development.

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SB 36—LS 6097/DI 13+



February 14, 2003

First Regular Session 113th General Assembly (2003)

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 2002 Regular or Special Session of the General Assembly.

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SENATE BILL No. 36

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 20-8.1-5.1-8 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. (a) The following are
3 the grounds for student suspension or expulsion, subject to the
4 procedural requirements of this chapter and as stated by school
5 corporation rules:
6 (1) Student misconduct.
7 (2) Substantial disobedience.
8 (b) The grounds for suspension or expulsion listed in subsection (a)
9 apply when a student is:
10 (1) on school grounds immediately before or during school hours,
11 or immediately after school hours, or at any other time when the
12 school is being used by a school group;
13 (2) off school grounds at a school activity, function, or event; or
14 (3) traveling to or from school or a school activity, function, or
15 event.
16 (c) **A superintendent or the superintendent's designee may send**
17 **written notice of the suspension or expulsion of a student under**

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this section to:
(1) the prosecuting attorney; or
(2) the office of family and children;
of the county in which the school corporation is located if there is
an agreement as described in IC 31-34-1-7.5(a)(2).

SECTION 2. IC 20-8.1-5.1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. (a) In addition to the grounds specified in section 8 of this chapter, a student may be suspended or expelled for engaging in unlawful activity on or off school grounds if:

- (1) the unlawful activity may reasonably be considered to be an interference with school purposes or an educational function; or
 - (2) the student's removal is necessary to restore order or protect persons on school property;
- including an unlawful activity during weekends, holidays, other school breaks, and the summer period when a student may not be attending classes or other school functions.

(b) A superintendent or the superintendent's designee may send written notice of suspension or expulsion of a student under this section to:

(1) the prosecuting attorney; or
(2) the office of family and children;
of the county in which the school corporation is located if there is
an agreement as described in IC 31-34-1-7.5(a)(2).

SECTION 3. IC 20-8.1-5.1-10, AS AMENDED BY P.L. 123-2002, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. (a) As used in this section, "firearm" has the meaning set forth in IC 35-47-1-5.

(b) As used in this section, "deadly weapon" has the meaning set forth in IC 35-41-1-8. The term does not include a firearm or destructive device.

(c) As used in this section, "destructive device" has the meaning set forth in IC 35-47.5-2-4.

(d) Notwithstanding section 14 of this chapter, a student who is:

- (1) identified as bringing a firearm or destructive device to school or on school property; or
- (2) in possession of a firearm or destructive device on school property;

must be expelled for a period of at least one (1) calendar year, with the return of the student to be at the beginning of the first school semester after the end of the one (1) year period.

(e) The superintendent may, on a case-by-case basis, modify the

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1 period of expulsion under subsection (d) for a student who is expelled
2 under this section.

3 (f) Notwithstanding section 14 of this chapter, a student who is:

4 (1) identified as bringing a deadly weapon to school or on school
5 property; or

6 (2) in possession of a deadly weapon on school property;

7 may be expelled for a period of not more than one (1) calendar year.

8 (g) A superintendent or the superintendent's designee shall
9 immediately notify the appropriate law enforcement agency having
10 jurisdiction over the property where the school is located if a student
11 engages in a behavior described in subsection (d). The superintendent
12 may give similar notice if the student engages in a behavior described
13 in subsection (f). Upon receiving notification under this subsection, the
14 law enforcement agency shall begin an investigation and take
15 appropriate action.

16 (h) A student with disabilities (as defined in IC 20-1-6.1-7) who
17 possesses a firearm on school property is subject to procedural
18 safeguards under 20 U.S.C. 1415.

19 **(i) A superintendent or the superintendent's designee may send
20 written notice of expulsion to the county:**

21 **(1) prosecuting attorney; or**

22 **(2) office of family and children;**

23 **in which the school corporation is located if there is an agreement
24 as described in IC 31-34-1-7.5(a)(2).**

25 SECTION 4. IC 31-34-1-7.5 IS ADDED TO THE INDIANA CODE
26 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
27 1, 2003]: **Sec. 7.5. (a) A child may be adjudicated a child in need of
28 services if:**

29 **(1) the child is a student at an elementary or secondary school
30 and is suspended or expelled under:**

31 **(A) IC 20-8.1-5.1-8;**

32 **(B) IC 20-8.1-5.1-9; or**

33 **(C) IC 20-8.1-5.1-10; and**

34 **(2) the:**

35 **(A) school corporation (as defined in IC 20-1-6-1);**

36 **(B) county office of family and children;**

37 **(C) prosecuting attorney; and**

38 **(D) judge of the court with juvenile jurisdiction;**

39 **have entered into an agreement under which a child described
40 in subdivision (1) is referred to the juvenile court of the
41 county in which the school corporation is located for
42 determination of whether the child is a child in need of**

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services as provided in this article.
(b) Except as provided in subsection (c), if a child is adjudicated a child in need of services under this section, the school corporation is responsible for the costs of all services ordered for the child (other than secure detention) and for the child's parent, guardian, or custodian under IC 31-40-1. The county may obtain reimbursement from the school corporation for the payment of those costs under IC 31-40-1-2(c).

(c) The school corporation's reimbursement to the county may not exceed ninety percent (90%) of the tuition support distributed to the school corporation on behalf of each student for the calendar year in which the child was adjudicated a child in need of services.

SECTION 5. IC 31-34-9-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. **(a)** The prosecuting attorney or the attorney for the county office of family and children:

- (1) may request the juvenile court to authorize the filing of a petition alleging that a child is a child in need of services; and
- (2) shall represent the interests of the state at this proceeding and at all subsequent proceedings on the petition.

(b) A petition may not be requested under subsection (a)(1) for a child described in IC 31-34-1-7.5(a)(1) unless the prosecuting attorney or the attorney for the county office of family and children receives written notice of the child's suspension or expulsion from the school corporation.

SECTION 6. IC 31-34-10-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. Before complying with the other requirements of this chapter, the juvenile court shall first determine whether the following conditions make it appropriate to appoint a guardian ad litem or a court appointed special advocate, or both, for the child:

- (1) If the child is alleged to be a child in need of services:
 - (A) under IC 31-34-1-6;
 - (B) under IC 31-34-1-10 or IC 31-34-1-11;
 - (C) due to the inability, refusal, or neglect of the child's parent, guardian, or custodian to supply the child with the necessary medical care; or
 - (D) because the location of both of the child's parents is unknown;
 the court shall appoint a guardian ad litem or court appointed special advocate, or both, for the child.
- (2) If the child is alleged to be a child in need of services under:
 - (A) IC 31-34-1-1;

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- 1 (B) IC 31-34-1-2;
 2 (C) IC 31-34-1-3;
 3 (D) IC 31-34-1-4;
 4 (E) IC 31-34-1-5;
 5 (F) IC 31-34-1-7; ~~or~~
 6 (G) **IC 31-34-1-7.5; or**
 7 (H) IC 31-34-1-8;

8 the court may appoint a guardian ad litem, court appointed special
 9 advocate, or both, for the child.

10 (3) If the parent, guardian, or custodian of a child denies the
 11 allegations of a petition under section 6 of this chapter, the court
 12 shall appoint a guardian ad litem, court appointed special
 13 advocate, or both, for the child.

14 SECTION 7. IC 31-34-10-5 IS AMENDED TO READ AS
 15 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. The juvenile court
 16 shall inform the parent or guardian of the estate that if the child is
 17 adjudicated a child in need of services:

18 (1) the parent, guardian, or custodian of the child may be required
 19 to participate in a program of care, treatment, or rehabilitation for
 20 the child;

21 (2) the parent or guardian may be held financially responsible for
 22 services provided for the parent, guardian, or child **unless the**
 23 **child is adjudicated a child in need of services under**
 24 **IC 31-34-1-7.5; and**

25 (3) the parent, guardian, or custodian of the child may controvert
 26 the following:

27 (A) Allegations made at the child's dispositional or other
 28 hearing concerning the parent's, guardian's, or custodian's
 29 participation.

30 (B) Allegations concerning the parent's or guardian's financial
 31 responsibility for services that would be provided.

32 SECTION 8. IC 31-34-18-3 IS AMENDED TO READ AS
 33 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. **(a) A report is not**
 34 **required under this section if the child is alleged to be a child in**
 35 **need of services under IC 31-34-1-7.5.**

36 **(b)** The probation officer or caseworker shall also prepare a
 37 financial report on the parent or the estate of the child to assist the
 38 juvenile court in determining the person's financial responsibility for
 39 services provided for the child or the person.

40 SECTION 9. IC 31-34-19-1 IS AMENDED TO READ AS
 41 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. The juvenile court
 42 shall hold a dispositional hearing to consider the following:

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(1) Alternatives for the care, treatment, rehabilitation, or placement of the child.

(2) The necessity, nature, and extent of the participation by a parent, a guardian, or a custodian in the program of care, treatment, or rehabilitation for the child.

(3) The financial responsibility of the parent or guardian of the estate for services provided for the parent or guardian or the child **unless the child is adjudicated a child in need of services under IC 31-34-1-7.5.**

SECTION 10. IC 31-40-1-2, AS AMENDED BY P.L.273-1999, SECTION 119, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) **Subject to subsection (c),** the county shall pay from the county family and children’s fund the cost of:

(1) any services ordered by the juvenile court for any child or the child's parent, guardian, or custodian, other than secure detention; and

(2) returning a child under IC 31-37-23.

(b) The county fiscal body shall provide sufficient money to meet the court's requirements.

(c) In the case of a child adjudicated a child in need of services under IC 31-34-1-7.5, the county is entitled to reimbursement of all payments made by the county under subsection (a)(1) from the school corporation that suspended or expelled the child.

SECTION 11. IC 31-40-1-3, AS AMENDED BY P.L.273-1999, SECTION 120, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) **This section does not apply to the parent or guardian of the estate of a child adjudicated a child in need of services under IC 31-34-1-7.5.**

(b) A parent or guardian of the estate of a child adjudicated a delinquent child or a child in need of services is financially responsible as provided in this chapter (or IC 31-6-4-18(e) before its repeal) for any services ordered by the court.

~~(b)~~ (c) Each parent of a child alleged to be a child in need of services or alleged to be a delinquent child shall, before a dispositional hearing, furnish the court with an accurately completed and current child support obligation worksheet on the same form that is prescribed by the Indiana supreme court for child support orders.

~~(c)~~ (d) At:

(1) a detention hearing;

(2) a hearing that is held after the payment of costs by a county under section 2 of this chapter (or IC 31-6-4-18(b) before its repeal);

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1 (3) the dispositional hearing; or
2 (4) any other hearing to consider modification of a dispositional
3 decree;
4 the juvenile court shall order the child's parents or the guardian of the
5 child's estate to pay for, or reimburse the county for the cost of, services
6 provided to the child or the parent or guardian unless the court finds
7 that the parent or guardian is unable to pay or that justice would not be
8 served by ordering payment from the parent or guardian.
9 SECTION 12. [EFFECTIVE JULY 1, 2003] **IC 31-34-1-7.5, as**
10 **added by this act, applies to an act or omission resulting in**
11 **suspension or expulsion only if the act or omission occurs after**
12 **June 30, 2003.**

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SENATE MOTION

Mr. President: I move that Senator Garton be removed as author of Senate Bill 36 and that Senator Kenley be substituted therefor.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 36, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete the title and insert the following:

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

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill be reassigned to the Senate Committee on Judiciary.

(Reference is to SB 36 as introduced.)

GARTON, Chairperson

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SENATE MOTION

Mr. President: I move that Senator Broden be added as coauthor of Senate Bill 36.

KENLEY

SENATE MOTION

Mr. President: I move that Senator Bowser be added as second author and Senator Drozda be added as coauthor of Senate Bill 36.

KENLEY

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COMMITTEE REPORT

Mr. President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 36, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 4, line 2, delete "If" and insert "**Except as provided in subsection (c), if**".

Page 4, between lines 7 and 8, begin a new paragraph and insert:

"(c) The school corporation's reimbursement to the county may not exceed ninety percent (90%) of the tuition support distributed to the school corporation on behalf of each student for the calendar year in which the child was adjudicated a child in need of services."

and when so amended that said bill do pass and be reassigned to the Senate Committee on Education and Career Development.

(Reference is to SB 36 as printed February 4, 2003.)

BRAY, Chairperson

Committee Vote: Yeas 8, Nays 0.

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