February 2, 2004

HOUSE BILL No. 1268

DIGEST OF HB 1268 (Updated January 30, 2004 12:00 pm - DI 92)

Citations Affected: IC 4-13; IC 12-7; IC 12-13; IC 31-33; IC 31-34; IC 31-37; IC 34-30; IC 34-46.

Synopsis: Child advocacy, child fatality review, and CHINS. Establishes the child advocate bureau, which shall investigate complaints concerning agencies that provide services to children and shall evaluate services for children. Provides that the child advocate and a person who provides records to the child advocate is immune from civil liability. Makes certain actions that impede the child advocate's investigation a Class A misdemeanor. Establishes the statewide child fatality review committee to review the deaths of children who die suddenly or unexpectedly. Makes the testimony of a committee member inadmissible in certain proceedings. Requires a juvenile court to order a child and the child's parent into counseling if the child is found to have committed a delinquent act that would be one of certain types of sex crimes if committed by an adult. Provides that records of state agencies regarding the death of a child who died as a result of abuse, abandonment, or neglect are not confidential. Provides that a child living in a household with an adult who committed a sex crime against another child living in the household is a child in need of services under certain circumstances. Establishes a rebuttable presumption that a child is a CHINS under certain circumstances. Provides the presumption may not be the reason for taking the child into custody or emergency custody unless a court finds cause following a hearing. Provides that a state employee who falsifies child abuse or neglect information and the child suffers bodily injury as a result of the offense commits a Class A misdemeanor.

Effective: July 1, 2004.

Orentlicher, Bardon, Budak, Hinkle

January 15, 2004, read first time and referred to Committee on Judiciary.
January 26, 2004, amended, reported — Do Pass; referred to Committee on Ways and Means pursuant to Rule 127.
February 2, 2004, amended, reported — Do Pass.

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February 2, 2004

Second Regular Session 113th General Assembly (2004)

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 2003 Regular Session of the General Assembly.

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HOUSE BILL No. 1268

A BILL FOR AN ACT to amend the Indiana Code concerning human services.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 4-13-1.8 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

Chapter 1.8. Child Advocate Bureau

Sec. 1. As used in this chapter, "bureau" refers to the child advocate bureau established by section 6 of this chapter.

Sec. 2. As used in this chapter, "child" means an individual who is less than eighteen (18) years of age.

Sec. 3. As used in this chapter, "child advocate" means:

(1) an employee of the bureau; or

(2) an individual approved by the bureau;

who investigates and resolves complaints described in section 8 of this chapter.

Sec. 4. As used in this chapter, "law enforcement agency" means an agency or a department of any level of government whose principal function is the apprehension of criminal offenders.

Sec. 5. (a) As used in this chapter, "state agency" means any

department, commission, council, board, bureau, division, service, office, officer, administration, or other establishment in the executive or administrative branch of state government or any law enforcement agency.

(b) The term does not include state supported colleges or universities.

Sec. 6. The child advocate bureau is established as a separate bureau within the Indiana department of administration.

Sec. 7. (a) The governor shall appoint a director of the bureau. The governor shall appoint a successor director within thirty (30) days after a vacancy occurs in the position of the director. The director serves at the pleasure of the governor.

(b) The director may employ experts and other employees to carry out the purposes of this chapter.

Sec. 8. (a) The child advocate shall receive, investigate, and attempt to resolve complaints that any state agency:

(1) violated a specific law, rule, or department written policy concerning services to a child; or

(2) failed to provide any services to a child that the agency is required to provide.

However, the child advocate shall not investigate a complaint from an employee of a state agency that relates to the employee's employment relationship with the state agency.

(b) At the conclusion of an investigation of a complaint, the child advocate shall report the child advocate's findings to the complainant.

(c) If the child advocate does not investigate a complaint, the child advocate shall notify the complainant of the decision not to investigate and the reasons for the decision.

Sec. 9. (a) The child advocate shall be given appropriate access to the records of a state agency, including confidential records.

(b) A state or local governmental agency or entity that has records that are relevant to a complaint or an investigation conducted by the child advocate shall provide the child advocate with access to the records.

(c) A person is immune from civil or criminal liability for the release or disclosure of records to the child advocate under this chapter.

Sec. 10. (a) The child advocate shall do the following:

(1) Evaluate the delivery of services to children by state agencies and those entities that provide services to children that receive state funds.

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(2) Periodically review the procedures concerning services to children established by a state agency.

(3) Review and investigate complaints of an individual concerning the actions of any state or municipal agency providing services to children and of any entity that provides services to a child that receives state funds.

(4) Pursuant to an investigation, provide assistance to a child or family whom the child advocate determines is in need of assistance, including advocating with an agency, provider, or other person on behalf of the interests of the child.

(5) Periodically review the facilities and procedures of any institution or residence, public or private, where a child has been placed by any state agency.

(6) Recommend changes in state and local policies concerning juvenile justice or services for children.

(7) Conduct public education programs concerning services for children.

(8) Make proposals for systemic reform and formal legal action to ensure the welfare of children.

(9) Provide training and technical assistance to attorneys representing children and guardians ad litem.

(10) Serve on the statewide child fatality review committee established by IC 12-13-15.1-6.

(11) Advise the public about the services of the child advocate bureau.

(b) The correspondence and communication between the child advocate and any person is a privileged communication.

Sec. 11. The child advocate is not civilly liable for the good faith performance of official duties.

Sec. 12. (a) The director of the bureau shall prepare a report each year on the operations of the bureau.

(b) A copy of the report shall be provided to the following:

(1) The governor.

(2) The legislative council, in an electronic format under IC 5-14-6.

(3) The department.

Sec. 13. A person who:

(1) intentionally interferes with or prevents the completion of the work of the child advocate;

(2) knowingly offers compensation to the child advocate in an effort to affect the outcome of an investigation or a potential investigation;

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(3) knowingly or intentionally retaliates against an individual who provides information to the child advocate; or

(4) knowingly or intentionally makes threats against:

(A) the child advocate;

(B) an individual who has filed a complaint; or

(C) an individual who provides information to the child advocate;

because of an investigation or a potential investigation; commits a Class A misdemeanor.

Sec. 14. The bureau may apply for, receive, and disburse gifts, contributions, and grants of funds or in-kind services.

Sec. 15. The Indiana department of administration shall provide and maintain office space for the bureau.

SECTION 2. IC 12-7-2-28, AS AMENDED BY P.L.34-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 28. "Child" means the following:

(1) For purposes of IC 12-13-15, the meaning set forth in IC 12-13-15-1.

(2) **For purposes of IC 12-13-15.1, the meaning set forth in IC 12-13-15.1-1.**

(3) For purposes of IC 12-17.2 and IC 12-17.4, an individual who is less than eighteen (18) years of age.

~~(3)~~ **(4)** For purposes of IC 12-26, the meaning set forth in IC 31-9-2-13(d).

SECTION 3. IC 12-7-2-76.7, AS ADDED BY P.L.34-2001, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 76.7. **(a)** "Emergency medical services", for purposes of IC 12-13-15, has the meaning set forth in IC 12-13-15-2.

(b) "Emergency medical services", for purposes of IC 12-13-15.1, has the meaning set forth in IC 12-13-15.1-2.

SECTION 4. IC 12-7-2-124.5, AS ADDED BY P.L.34-2001, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 124.5. **(a)** "Local child fatality review team", for purposes of IC 12-13-15, has the meaning set forth in IC 12-13-15-3.

(b) "Local child fatality review team", for purposes of IC 12-13-15.1, has the meaning set forth in IC 12-13-15.1-3.

SECTION 5. IC 12-7-2-129.5, AS ADDED BY P.L.34-2001, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 129.5. **(a)** "Mental health provider", for purposes of IC 12-13-15, has the meaning set forth in IC 12-13-15-4.

(b) "Mental health provider", for purposes of IC 12-13-15.1, has the meaning set forth in IC 12-13-15.1-4.

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SECTION 6. IC 12-7-2-186.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 186.5. "Statewide child fatality review committee", for purposes of IC 12-13-15.1, has the meaning set forth in IC 12-13-15.1-5.**

SECTION 7. IC 12-13-15-6.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 6.5. A local child fatality review team may request that the statewide child fatality review committee make a fatality review of a child from the area served by the local child fatality review team if a majority of the members of a local child fatality review team vote to make the request.**

SECTION 8. IC 12-13-15.1 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

Chapter 15.1. Statewide Child Fatality Review Committee

Sec. 1. As used in this chapter, "child" means an individual less than eighteen (18) years of age.

Sec. 2. As used in this chapter, "emergency medical services" means emergency ambulance services or other services, including extrication and rescue services, provided to an individual in need of immediate medical care in order to prevent loss of life or aggravation of physiological or psychological illness or injury.

Sec. 3. As used in this chapter, "local child fatality review team" refers to a county or regional child fatality review team established under IC 12-13-15.

Sec. 4. As used in this chapter, "mental health provider" means any of the following:

(1) A registered nurse or licensed practical nurse licensed under IC 25-23.

(2) A clinical social worker licensed under IC 25-23.6-5.

(3) A marriage and family therapist licensed under IC 25-23.6-8.

(4) A psychologist licensed under IC 25-33.

(5) A school psychologist licensed by the Indiana state board of education.

Sec. 5. As used in this chapter, "statewide child fatality review committee" refers to the statewide child fatality review committee established by section 6 of this chapter.

Sec. 6. (a) The statewide child fatality review committee is established for the purpose of reviewing a child's death that is:

(1) sudden;

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(2) unexpected; or
(3) unexplained;
if the county where the child died does not have a local child fatality review team or if the local child fatality review team requests a review of the child's death by the statewide committee.
(b) The statewide child fatality review committee may also review the death of a child or a near fatality of a child upon request by an individual.
(c) A request submitted under subsection (b) must set forth:
(1) the name of the child;
(2) the age of the child;
(3) the county where the child died or where the near fatality occurred;
(4) whether a local child fatality review team reviewed the death; and
(5) the cause of death of the deceased child or a description of the near fatality of the child.
Sec. 7. A child fatality review conducted by the statewide child fatality review committee under this chapter shall consist of determining:
(1) whether similar future deaths could be prevented; and
(2) agencies or resources that should be involved to adequately prevent future deaths of children.
Sec. 8. The statewide child fatality review committee consists of:
(1) the director of the child advocate bureau established by IC 4-13-1.8-6; and
(2) the following members appointed by the governor:
(A) a coroner or deputy coroner;
(B) a representative from:
(i) the state department of health established by IC 16-19-1-1;
(ii) a local health department established under IC 16-20-2; or
(iii) a multiple county health department established under IC 16-20-3;
(C) a pediatrician;
(D) a representative of law enforcement;
(E) a representative from an emergency medical services provider;
(F) a director of an office of family and children;
(G) a representative of a prosecuting attorney;
(H) a pathologist with forensic experience who is licensed

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to practice medicine in Indiana;

(I) a mental health provider;

(J) a representative of a child abuse prevention program;

(K) a representative of a child advocacy program; and

(L) a representative of the department of education.

Sec. 9. (a) The chairperson of the statewide child fatality review committee shall be selected by the governor.

(b) The statewide child fatality review committee shall meet at the call of the chairperson.

(c) The statewide child fatality review committee chairperson shall determine the agenda for each meeting.

Sec. 10. (a) Except as provided in subsection (b), meetings of the statewide child fatality review committee are open to the public.

(b) Except as provided in subsection (d), a meeting of the statewide child fatality review committee that involves:

(1) confidential records; or

(2) identifying information regarding the death of a child that is confidential under state or federal law;

shall be held as an executive session.

(c) If a meeting is held as an executive session under subsection (b), each individual who:

(1) attends the meeting; and

(2) is not a member of the statewide child fatality review committee;

shall sign a confidentiality statement prepared by the division. The statewide child fatality review committee shall keep all confidentiality statements signed under this subsection.

(d) A majority of the members of the statewide child fatality review committee may vote to disclose any report or part of a report regarding a fatality review to the public if the information is in the general public interest as determined by the statewide child fatality review committee.

Sec. 11. Members of the statewide child fatality review committee and individuals who attend a meeting of the statewide child fatality review team as an invitee of the chairperson:

(1) may discuss among themselves confidential matters that are before the statewide child fatality review committee;

(2) are bound by all applicable laws regarding the confidentiality of matters reviewed by the statewide child fatality review committee; and

(3) except when acting:

(A) with malice;

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(B) in bad faith; or

(C) with negligence;

are immune from any civil or criminal liability that might otherwise be imposed as a result of communicating among themselves about confidential matters that are before the statewide child fatality review committee.

Sec. 12. The division shall provide training to the statewide child fatality review committee.

Sec. 13. (a) The division shall collect and document information surrounding the deaths of children reviewed by the statewide child fatality review committee. The division shall develop a data collection form that includes:

(1) identifying and nonidentifying information;

(2) information regarding the circumstances surrounding a death;

(3) factors contributing to a death; and

(4) findings and recommendations.

(b) The data collection form developed under this section must also be provided to:

(1) the appropriate community child protection team; and

(2) the appropriate:

(A) local health department established under IC 16-20-2; or

(B) multiple county health department established under IC 16-20-3.

Sec. 14. The affirmative votes of the voting members of a majority of the statewide child fatality review committee are required for the committee to take action on any measure.

Sec. 15. The expenses of the statewide child fatality review committee shall be paid from funds appropriated to the division.

Sec. 16. The testimony of a member of the statewide child fatality review committee is not admissible as evidence concerning an investigation by the statewide child fatality review committee.

SECTION 9. IC 31-33-18-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. **(a) Except as provided in subsection (b),** the following are confidential:

(1) Reports made under this article (or IC 31-6-11 before its repeal).

(2) Any other information obtained, reports written, or photographs taken concerning the reports in the possession of:

(A) the division of family and children;

(B) the county office of family and children; or

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(C) the local child protection service.

(b) All records held by:

(1) the division of family and children;

(2) a county office of family and children;

(3) a local child protection service;

(4) a local child fatality review team established under IC 12-13-15;

(5) the statewide child fatality review committee established under IC 12-13-15.1-6; or

(6) the child advocate bureau established by IC 4-13-1.8-6;

regarding the death of a child determined to be a result of abuse, abandonment, or neglect are not confidential and shall be disclosed to any person who requests the information. Information identifying the person reporting the abuse, abandonment, or neglect shall not be released. Any information in a report that is otherwise confidential under state or federal law shall not be released.

SECTION 10. IC 31-33-18-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. The reports and other material described in section ~~1~~ **1(a)** of this chapter shall be made available only to the following:

(1) Persons authorized by this article.

(2) A legally mandated public or private child protective agency investigating a report of child abuse or neglect or treating a child or family that is the subject of a report or record.

(3) A police or other law enforcement agency, prosecuting attorney, or coroner in the case of the death of a child who is investigating a report of a child who may be a victim of child abuse or neglect.

(4) A physician who has before the physician a child whom the physician reasonably suspects may be a victim of child abuse or neglect.

(5) An individual legally authorized to place a child in protective custody if:

(A) the individual has before the individual a child whom the individual reasonably suspects may be a victim of abuse or neglect; and

(B) the individual requires the information in the report or record to determine whether to place the child in protective custody.

(6) An agency having the legal responsibility or authorization to care for, treat, or supervise a child who is the subject of a report

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or record or a parent, guardian, custodian, or other person who is responsible for the child's welfare.

(7) An individual named in the report or record who is alleged to be abused or neglected or, if the individual named in the report is a child or is otherwise incompetent, the individual's guardian ad litem or the individual's court appointed special advocate, or both.

(8) Each parent, guardian, custodian, or other person responsible for the welfare of a child named in a report or record and an attorney of the person described under this subdivision, with protection for the identity of reporters and other appropriate individuals.

(9) A court, upon the court's finding that access to the records may be necessary for determination of an issue before the court. However, access is limited to in camera inspection unless the court determines that public disclosure of the information contained in the records is necessary for the resolution of an issue then pending before the court.

(10) A grand jury upon the grand jury's determination that access to the records is necessary in the conduct of the grand jury's official business.

(11) An appropriate state or local official responsible for the child protective service or legislation carrying out the official's official functions.

(12) A foster care review board established by a juvenile court under IC 31-34-21-9 (or IC 31-6-4-19 before its repeal) upon the court's determination that access to the records is necessary to enable the foster care review board to carry out the board's purpose under IC 31-34-21.

(13) The community child protection team appointed under IC 31-33-3 (or IC 31-6-11-14 before its repeal), upon request, to enable the team to carry out the team's purpose under IC 31-33-3.

(14) A person about whom a report has been made, with protection for the identity of:

(A) any person reporting known or suspected child abuse or neglect; and

(B) any other person if the person or agency making the information available finds that disclosure of the information would be likely to endanger the life or safety of the person.

(15) A local child fatality review team established under IC 12-13-15-6.

(16) The statewide child fatality review committee established by IC 12-13-15.1-6.

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(17) The child advocate bureau established by IC 4-13-1.8-6.

SECTION 11. IC 31-33-22-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. ~~An~~ **(a) Except as provided in subsection (b) an** individual who:

(1) knowingly requests, obtains, or seeks to obtain child abuse or neglect information under false pretenses; or

(2) knowingly falsifies child abuse or neglect information or records;

commits a Class B misdemeanor.

(b) An individual who violates subsection (a)(2) commits a Class A misdemeanor if the individual is a state employee and the victim who is the subject of the information or records suffers serious bodily injury as a result of the offense.

SECTION 12. IC 31-34-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. **(a)** A child is a child in need of services if, before the child becomes eighteen (18) years of age:

(1) the child is the victim of a sex offense under:

(A) IC 35-42-4-1;
(B) IC 35-42-4-2;
(C) IC 35-42-4-3;
(D) IC 35-42-4-4;
(E) IC 35-42-4-7;
(F) IC 35-42-4-9;
(G) IC 35-45-4-1;
(H) IC 35-45-4-2; or
(I) IC 35-46-1-3; and

(2) the child needs care, treatment, or rehabilitation that: ~~the child:~~

(A) **the child** is not receiving; and
(B) is unlikely to be provided or accepted without the coercive intervention of the court.

(b) A child is a child in need of services if, before the child becomes eighteen (18) years of age:

(1) the child lives in the same household as another child who is the victim of a sex offense under:

(A) IC 35-42-4-1;
(B) IC 35-42-4-2;
(C) IC 35-42-4-3;
(D) IC 35-42-4-4;
(E) IC 35-42-4-7;
(F) IC 35-42-4-9;

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(G) IC 35-45-4-1;
(H) IC 35-45-4-2; or
(I) IC 35-46-1-3;
(2) the child lives in the same household as the adult who committed the sex crime under subdivision (1) and the sex crime resulted in a conviction or a judgment under IC 31-34-11-2;
(3) the child needs care, treatment, or rehabilitation that:
(A) the child is not receiving; and
(B) is unlikely to be provided or accepted without the coercive intervention of the court; and
(4) a caseworker assigned to provide services to the child:
(A) places the child in a program of informal adjustment or other family or rehabilitative services based upon the existence of the circumstances described in subdivisions (1) and (2) and the assigned caseworker subsequently determines further intervention is necessary; or
(B) determines that a program of informal adjustment or other family or rehabilitative services is inappropriate.

SECTION 13. IC 31-34-12-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 4.5. (a) There is a rebuttable presumption that a child is a child in need of services if the state establishes that:**
(1) another child in the same household is the victim of a sex offense described in IC 31-34-1-3; and
(2) the sex offense referred to in subdivision (1):
(A) was committed by an adult who lives in the household with the child; and
(B) resulted in a conviction of the adult or a judgment under IC 31-34-11-2 as it relates to the child against whom the sex offense was committed.

(b) The following may not be used as grounds to rebut the presumption under subsection (a):
(1) The child who is the victim of the sex offense described in IC 31-34-1-3 is not genetically related to the adult who committed the act, but the child presumed to be the child in need of services under this section is genetically related to the adult who committed the act.
(2) The child who is the victim of the sex offense described in IC 31-34-1-3 differs in age from the child presumed to be the child in need of services under this section.

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(c) A child presumed to be a child in need of services under this section may not be taken into custody or emergency custody under IC 31-34-2 unless the court first finds cause to take the child into custody or emergency custody following a hearing in which the parent, guardian, or custodian of the child is accorded the rights described in IC 31-34-4-6(a)(2) through IC 31-34-4-6(a)(5).

(d) This section does not affect a court's authority to take a child into custody or emergency custody under IC 31-34-2 if the court does not act on the basis of a presumption established under this section.

SECTION 14. IC 31-37-19-17.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 17.4. (a) This section applies if a child is a delinquent child under IC 31-37-1 due to the commission of a delinquent act that, if committed by an adult, would be a sex crime listed in IC 35-38-1-7.1(e).**

(b) The juvenile court shall, in addition to any other order or decree the court makes under this chapter, order:

(1) the child; and

(2) the child's parent or guardian;

to receive psychological counseling as directed by the court.

SECTION 15. IC 34-30-2-39.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 39.7. IC 4-13-1.8-9(c) (Concerning a person who releases information to the child advocate bureau).**

SECTION 16. IC 34-30-2-39.9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 39.9. IC 4-13-1.8-11 (Concerning the child advocate bureau).**

SECTION 17. IC 34-30-2-44.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 44.1. IC 12-13-15.1-11 (Concerning members of the statewide child fatality review committee and persons who attend a meeting of the statewide child fatality review committee as invitees of the chairperson).**

SECTION 18. IC 34-46-2-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 1.5. IC 4-13-1.8-10(b) (Concerning communications made to the child advocate).**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1268, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 9, line 2, delete "A report" and insert "**All records held**".

Page 9, line 12, delete "is" and insert "**are**".

Page 9, line 15, after "is" insert "**otherwise**".

Page 10, after line 42, begin a new paragraph and insert:

"SECTION 11. IC 31-33-22-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. ~~An~~ **(a) Except as provided in subsections (b) and (c), an** individual who:

(1) knowingly requests, obtains, or seeks to obtain child abuse or neglect information under false pretenses; or

(2) knowingly falsifies child abuse or neglect information or records;

commits a Class B misdemeanor.

(b) An individual who violates subsection (a)(2) commits a Class D felony if the individual is a state employee and the victim who is the subject of the information or records suffers serious bodily injury as a result of the offense.

(c) An individual who violates subsection (a)(2) commits a Class C felony if the individual is a state employee and the victim who is the subject of the information or records dies as a result of the offense.".

Page 11, line 20, delete "A" and insert "**Except as provided in subsection (c), a**".

Page 11, line 32, delete "and".

Page 11, line 33, after "(2)" insert "**the sex offense referred to in subdivision (1) was committed by an adult who lives in the household with the child; and**

(3)".

Page 11, between lines 36 and 37, begin a new paragraph and insert:

"**(c) Before a court determines that a child needs care, treatment, or rehabilitation under subsection (b)(3), a court must determine that voluntary services are inappropriate or have been unsuccessful.**".

Page 12, between lines 23 and 24, begin a new paragraph and insert:

"**(d) This section does not affect a court's authority to take a child into custody or emergency custody under IC 31-34-2 if the court does not act on the basis of a presumption established under this section.**".

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Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1268 as introduced.)

LAWSON L, Chair

Committee Vote: yeas 13, nays 0.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1268, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, line 6, after "to" insert "**a**".

Page 11, line 4, delete "subsections (b) and (c)," and insert "**subsection (b)**".

Page 11, line 11, delete "D felony" and insert "**A misdemeanor**".

Page 11, delete lines 14 through 17.

Page 11, line 37, delete "Except as provided in subsection (c), a" and insert "**A**".

Page 12, line 8, delete "the sex offense referred to in subdivision (1) was" and insert "**the child lives in the same household as the adult who committed the sex crime under subdivision (1) and the sex crime resulted in a conviction or a judgment under IC 31-34-11-2;**".

Page 12, delete lines 9 through 10.

Page 12, line 14, delete "court." and insert "**court; and**".

Page 12, delete lines 15 through 18, begin a new line block indented and insert:

"**(4) a caseworker assigned to provide services to the child:**

(A) places the child in a program of informal adjustment or other family or rehabilitative services based upon the existence of the circumstances described in subdivisions (1) and (2) and the assigned caseworker subsequently determines further intervention is necessary; or

(B) determines that a program of informal adjustment or other family or rehabilitative services is inappropriate.".

Page 13, line 34, delete "person" and insert "**persons**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1268 as printed January 27, 2004.)

CRAWFORD, Chair

Committee Vote: yeas 24, nays 0.

C o p y