



Reprinted
January 31, 2006

HOUSE BILL No. 1203

DIGEST OF HB 1203 (Updated January 30, 2006 6:25 pm - DI 106)

Citations Affected: IC 31-17; IC 31-34; IC 31-37.

Synopsis: Preliminary orders in juvenile cases. Allows a juvenile court at a detention hearing to: (1) impose on a child alleged to be a child in need of services, or on the child's parent, guardian, or custodian, conditions to ensure the child's appearance at subsequent proceedings, the safety of the child, or both; and (2) impose on a child alleged to be a delinquent child, or on the child's parent, guardian, or custodian, conditions to ensure any combination of the child's appearance in subsequent proceedings, the safety of the child, or the public's physical safety. Requires a court to set a hearing within 48 hours to determine whether emergency placement is appropriate for a child whose custodial parent or guardian has died or become unable to care for the child, if a person other than a parent files a petition to determine or modify custody of the child. Provides that a court is not required to set a hearing within 48 hours if: (1) it appears from the pleadings that placement of the child with a person other than the noncustodial parent is not in the best interests of the child; it appears from the pleadings that the petitioner does not have a reasonable likelihood of success on the merits; or (3) manifest injustice would result.

Effective: July 1, 2006.

Thompson, Thomas

January 9, 2006, read first time and referred to Committee on Family, Children and Human Affairs.
January 25, 2006, reported — Do Pass.
January 30, 2006, read second time, amended, ordered engrossed.

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HB 1203—LS 6921/DI 110+



Second Regular Session 114th General Assembly (2006)

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 2005 Regular Session of the General Assembly.

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HOUSE BILL No. 1203

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 31-17-2-25 IS ADDED TO THE INDIANA CODE
2 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2006]: **Sec. 25. (a) This section applies if a custodial parent or
4 guardian of a child dies or becomes unable to care for the child.**
5 **(b) Except as provided in subsection (c), if a person other than
6 a parent files a petition:**
7 **(1) seeking to determine custody of the child; or**
8 **(2) to modify custody of the child;**
9 **the court shall set an initial hearing not later than forty-eight (48)**
10 **hours after the petition is filed to determine whether emergency**
11 **placement of the child with a person other than the child's**
12 **noncustodial parent pending a final determination of custody is in**
13 **the best interest of the child.**
14 **(c) A court is not required to set an initial hearing in accordance**
15 **with this section if:**
16 **(1) it appears from the pleadings that placement with a person**
17 **other than the noncustodial parent is not in the best interest**



- 1 **of the child;**
- 2 **(2) it appears from the pleadings that the petitioner does not**
- 3 **have a reasonable likelihood of success on the merits; or**
- 4 **(3) manifest injustice would result.**

5 SECTION 2. IC 31-34-5-3.5 IS ADDED TO THE INDIANA CODE
 6 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 7 1, 2006]: **Sec. 3.5. If the juvenile court releases a child to the child's**
 8 **parent, guardian, or custodian under section 3 of this chapter, the**
 9 **court may impose conditions on the child or the child's parent,**
 10 **guardian, or custodian to ensure:**

- 11 **(1) the child's appearance at subsequent proceedings;**
- 12 **(2) the safety of the child's physical or mental health; or**
- 13 **(3) that both subdivisions (1) and (2) are satisfied.**

14 SECTION 3. IC 31-37-6-6 IS AMENDED TO READ AS
 15 FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 6. (a) The juvenile**
 16 **court shall release the child on the child's own recognizance or to the**
 17 **child's parent, guardian, or custodian upon the person's written promise**
 18 **to bring the child before the court at a time specified. However, the**
 19 **court may order the child detained if the court finds probable cause to**
 20 **believe the child is a delinquent child and that:**

- 21 (1) the child is unlikely to appear for subsequent proceedings;
- 22 (2) detention is essential to protect the child or the community;
- 23 (3) the parent, guardian, or custodian:
 - 24 (A) cannot be located; or
 - 25 (B) is unable or unwilling to take custody of the child;
- 26 (4) return of the child to the child's home is or would be:
 - 27 (A) contrary to the best interests and welfare of the child; and
 - 28 (B) harmful to the safety or health of the child; or
- 29 (5) the child has a reasonable basis for requesting that the child
 30 not be released.

31 However, the findings under this subsection are not required if the
 32 child is ordered to be detained in the home of the child's parent,
 33 guardian, or custodian or is released subject to any condition listed in
 34 subsection (d).

35 (b) If a child is detained for a reason specified in subsection (a)(3),
 36 (a)(4), or (a)(5), the child shall be detained under IC 31-37-7-1.

37 (c) If a child is detained for a reason specified in subsection (a)(4),
 38 the court shall make written findings and conclusions that include the
 39 following:

- 40 (1) The factual basis for the finding specified in subsection (a)(4).
- 41 (2) A description of the family services available and efforts made
 42 to provide family services before removal of the child.

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- 1 (3) The reasons why efforts made to provide family services did
- 2 not prevent removal of the child.
- 3 (4) Whether efforts made to prevent removal of the child were
- 4 reasonable.
- 5 (d) Whenever the court releases a child under this section, the court
- 6 may impose conditions upon the child, including:
- 7 (1) home detention;
- 8 (2) electronic monitoring;
- 9 (3) a curfew restriction;
- 10 (4) a protective order;
- 11 (5) a no contact order;
- 12 (6) an order to comply with Indiana law; or
- 13 (7) an order placing any other reasonable conditions on the child's
- 14 actions or behavior.
- 15 **(e) If the juvenile court releases a child to the child's parent,**
- 16 **guardian, or custodian under this section, the court may impose**
- 17 **conditions on the child's parent, guardian, or custodian to ensure:**
- 18 **(1) the child's appearance at subsequent proceedings;**
- 19 **(2) the safety of the child's physical or mental health;**
- 20 **(3) the public's physical safety; or**
- 21 **(4) that any combination of subdivisions (1) through (3) are**
- 22 **satisfied.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Family, Children and Human Affairs, to which was referred House Bill 1203, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

BUDAK, Chair

Committee Vote: yeas 7, nays 1.

HOUSE MOTION

Mr. Speaker: I move that House Bill 1203 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 31-17-2-25 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 25. (a) This section applies if a custodial parent or guardian of a child dies or becomes unable to care for the child.**

(b) Except as provided in subsection (c), if a person other than a parent files a petition:

- (1) seeking to determine custody of the child; or**
- (2) to modify custody of the child;**

the court shall set an initial hearing not later than forty-eight (48) hours after the petition is filed to determine whether emergency placement of the child with a person other than the child's noncustodial parent pending a final determination of custody is in the best interest of the child.

(c) A court is not required to set an initial hearing in accordance with this section if:

- (1) it appears from the pleadings that placement with a person other than the noncustodial parent is not in the best interest of the child;**
- (2) it appears from the pleadings that the petitioner does not have a reasonable likelihood of success on the merits; or**
- (3) manifest injustice would result."**

Renumber all SECTIONS consecutively.

(Reference is to HB 1203 as printed January 26, 2006.)

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