



Reprinted  
January 29, 2008

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## SENATE BILL No. 105

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DIGEST OF SB 105 (Updated January 28, 2008 4:32 pm - DI 110)

**Citations Affected:** IC 4-21.5; IC 31-9; IC 31-16; IC 31-25; noncode.

**Synopsis:** Paternity and child support. Requires the department of child services (department) to: (1) implement a pilot program for establishing and enforcing paternity and child support; and (2) select counties to participate in the program. Requires the department to: (1) employ administrative law judges (ALJ); (2) serve notice of financial responsibility to an obligee and obligor concerning a child support obligation; (3) schedule a negotiation conference between the parties not more than 30 days after the department issues the notice; and (4) reschedule a negotiation conference. Requires an obligor and obligee to appear for or reschedule the negotiation conference. Requires the department to issue: (1) an order of child support if the parties stipulate to an agreement; (2) an order for genetic testing if the parties do not agree and the obligor contests paternity; (3) a temporary order of child support and request for an administrative hearing if the parties do not agree and there is an executed paternity affidavit or the results of a genetic test indicate at least a 99% probability that a man is the child's biological father; (4) a default order of child support if the obligor fails to appear for or reschedule a negotiation conference and there is an  
(Continued next page)

**Effective:** Upon passage; January 1, 2009.

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### Steele, Young R Michael

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January 8, 2008, read first time and referred to Committee on Rules and Legislative Procedure.

January 14, 2008, amended; reassigned to Committee on Corrections, Criminal and Civil Matters.

January 24, 2008, amended, reported favorably — Do Pass.

January 28, 2008, read second time, amended, ordered engrossed.

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executed paternity affidavit or the results of a genetic test indicate at least a 99% probability that a man is the child's biological father; and (5) a default order of paternity and child support if the obligor fails to meet certain requirements. Allows: (1) the department to dismiss an action if the results of a genetic test do not indicate at least a 99% probability that a man is the child's biological father; and (2) the department, an obligor, or an obligee to request an administrative hearing if the department issues a default order. Requires an ALJ to: (1) determine the matter of paternity and child support de novo; and (2) include written findings and conclusions in the ALJ's order. Requires the department and an ALJ to determine a child support obligation by applying the child support guidelines. Allows: (1) an obligor or obligee to file a written request with the department for the review and adjustment of a child support order; and (2) a party to seek judicial review of an ALJ's order. Provides that a nonresident obligee is not required to appear at a negotiation conference or an administrative hearing. Requires: (1) the department to file orders and other documents with the clerk of a court; and (2) the clerk to stamp the date of receipt on a copy of an order and assign a cause number. Provides that: (1) an ALJ is subject to the rules adopted by the department; (2) an order filed by the department with the court has all the force, effect, and remedies of an order of the court; and (3) if a genetic test is requested after the execution of a paternity affidavit, the court shall order the test to be paid out of the county general fund or by the party who requested the test. Provides that if the parties stipulate to an agreement of a child support obligation at the negotiation conference, the department: (1) shall issue an order of child support and establish parenting time; and (2) may include an order of custody if the parties agree.

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Second Regular Session 115th General Assembly (2008)

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 2007 Regular Session of the General Assembly.

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## SENATE BILL No. 105

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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 4-21.5-2-5, AS AMENDED BY P.L.1-2007,  
2 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JANUARY 1, 2009]: Sec. 5. This article does not apply to the  
4 following agency actions:
- 5 (1) The issuance of a warrant or jeopardy warrant for the  
6 collection of taxes.
  - 7 (2) A determination of probable cause or no probable cause by the  
8 civil rights commission.
  - 9 (3) A determination in a factfinding conference of the civil rights  
10 commission.
  - 11 (4) A personnel action, except review of a personnel action by the  
12 state employees appeals commission under IC 4-15-2 or a  
13 personnel action that is not covered by IC 4-15-2 but may be  
14 taken only for cause.
  - 15 (5) A resolution, directive, or other action of any agency that  
16 relates solely to the internal policy, organization, or procedure of  
17 that agency or another agency and is not a licensing or

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- 1 enforcement action. Actions to which this exemption applies
- 2 include the statutory obligations of an agency to approve or ratify
- 3 an action of another agency.
- 4 (6) An agency action related to an offender within the jurisdiction
- 5 of the department of correction.
- 6 (7) A decision of the Indiana economic development corporation,
- 7 the office of tourism development, the department of
- 8 environmental management, the tourist information and grant
- 9 fund review committee (before the repeal of the statute that
- 10 created the tourist information and grant fund review committee),
- 11 the Indiana finance authority, the corporation for innovation
- 12 development, or the lieutenant governor that concerns a grant,
- 13 loan, bond, tax incentive, or financial guarantee.
- 14 (8) A decision to issue or not issue a complaint, summons, or
- 15 similar accusation.
- 16 (9) A decision to initiate or not initiate an inspection,
- 17 investigation, or other similar inquiry that will be conducted by
- 18 the agency, another agency, a political subdivision, including a
- 19 prosecuting attorney, a court, or another person.
- 20 (10) A decision concerning the conduct of an inspection,
- 21 investigation, or other similar inquiry by an agency.
- 22 (11) The acquisition, leasing, or disposition of property or
- 23 procurement of goods or services by contract.
- 24 (12) Determinations of the department of workforce development
- 25 under IC 22-4-18-1(g)(1) or IC 22-4-41.
- 26 (13) A decision under IC 9-30-12 of the bureau of motor vehicles
- 27 to suspend or revoke a driver's license, a driver's permit, a vehicle
- 28 title, or a vehicle registration of an individual who presents a
- 29 dishonored check.
- 30 (14) An action of the department of financial institutions under
- 31 IC 28-1-3.1 or a decision of the department of financial
- 32 institutions to act under IC 28-1-3.1.
- 33 (15) A determination by the NVRA official under IC 3-7-11
- 34 concerning an alleged violation of the National Voter Registration
- 35 Act of 1993 (42 U.S.C. 1973gg) or IC 3-7.
- 36 (16) Imposition of a civil penalty under IC 4-20.5-6-8 if the rules
- 37 of the Indiana department of administration provide an
- 38 administrative appeals process.
- 39 (17) A determination of status as a member of or participant in an
- 40 environmental performance based program developed and
- 41 implemented under IC 13-27-8.
- 42 **(18) A proceeding to establish paternity or child support by**

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1           **the department of child service or an administrative law judge**  
2           **under IC 31-25-5.**

3           SECTION 2. IC 31-9-2-1.5 IS ADDED TO THE INDIANA CODE  
4 AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE**  
5 **JANUARY 1, 2009]: Sec. 1.5. "Administrative law judge", for**  
6 **purposes of IC 31-25-5, means a person employed by the**  
7 **department of child services under IC 31-25-2-21.**

8           SECTION 3. IC 31-9-2-17.7 IS ADDED TO THE INDIANA CODE  
9 AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE**  
10 **JANUARY 1, 2009]: Sec. 17.7. "Child support", for purposes of**  
11 **IC 31-25-5, includes child support, child support arrearage, foster**  
12 **care maintenance, medical support, interest on child support**  
13 **arrearage, and other reasonable support for a child.**

14           SECTION 4. IC 31-9-2-18 IS AMENDED TO READ AS  
15 FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 18. "Child support  
16 guidelines", for purposes of IC 31-14-11-8, ~~and~~ IC 31-16-8-1, and  
17 **IC 31-25-5**, refers to the guidelines adopted by the Indiana supreme  
18 court.

19           SECTION 5. IC 31-9-2-82.5 IS ADDED TO THE INDIANA CODE  
20 AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE**  
21 **JANUARY 1, 2009]: Sec. 82.5. "Negotiation conference", for**  
22 **purposes of IC 31-25-5, means a meeting between parties to discuss**  
23 **and determine paternity and a child support obligation of an**  
24 **obligor (as defined in IC 31-25-4-4).**

25           SECTION 6. IC 31-9-2-85, AS AMENDED BY P.L.103-2007,  
26 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
27 JANUARY 1, 2009]: Sec. 85. (a) "Obligee", for purposes of  
28 IC 31-16-15 and IC 31-16-16, means a person who is entitled to receive  
29 a payment under a support order.

30           (b) "Obligee" or "petitioner", for purposes of the Uniform Interstate  
31 Family Support Act under IC 31-18, has the meaning set forth in  
32 IC 31-18-1-14.

33           (c) "Obligee", for purposes of IC 31-25-5, means a person who:  
34           (1) is entitled to receive payment under a support order (as  
35 defined in IC 31-9-2-125(a)); or  
36           (2) has sought services from a Title IV-D agency.

37           SECTION 7. IC 31-9-2-86, AS AMENDED BY P.L.145-2006,  
38 SECTION 203, IS AMENDED TO READ AS FOLLOWS  
39 [EFFECTIVE JANUARY 1, 2009]: Sec. 86. (a) "Obligor", for purposes  
40 of IC 31-16-15 and IC 31-16-16, means an individual who has been  
41 ordered by a court to pay child support.

42           (b) "Obligor" or "respondent", for purposes of the Uniform Interstate

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1 Family Support Act under IC 31-18, has the meaning set forth in  
2 IC 31-18-1-15.

3 (c) "Obligor", for purposes of IC 31-25-4 **and IC 31-25-5**, has the  
4 meaning set forth in IC 31-25-4-4.

5 SECTION 8. IC 31-16-15-2.5, AS ADDED BY P.L.103-2007,  
6 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
7 JANUARY 1, 2009]: Sec. 2.5. (a) If, in a Title IV-D case, an income  
8 withholding order has not been issued with a support order under  
9 section 0.5 of this chapter **or the department of child services or an**  
10 **administrative law judge issues an order of support under**  
11 **IC 31-25-5**, a Title IV-D agency may:

- 12 (1) issue an income withholding order with the support order; and
- 13 (2) after providing notice under section 3.5 of this chapter,
- 14 implement the income withholding order unless the court:

15 (A) stays the implementation of the income withholding order  
16 under section 0.5(c) of this chapter; and

17 (B) provides a written finding of the stay in the support order.

18 (b) In a Title IV-D case in which the implementation of an income  
19 withholding order was stayed under section 0.5(c) of this chapter, the  
20 Title IV-D agency may:

21 (1) after providing notice under section 3.5 of this chapter, lift the  
22 stay if the obligor's child support and arrearage payments are  
23 delinquent; or

24 (2) lift the stay if the obligor requests implementation of the  
25 income withholding order.

26 (c) In a Title IV-D case, if:

27 (1) an income withholding order was stayed under section 0.5(c)  
28 of this chapter; and

29 (2) an obligor requests the implementation of the income  
30 withholding order;

31 the Title IV-D agency is not required to give notice under section 3.5  
32 of this chapter before implementing the income withholding order.

33 (d) An income withholding order issued under subsection (a):

- 34 (1) has the same force and effect; and
- 35 (2) is enforceable in the same manner;

36 as an income withholding order issued by a court.

37 (e) The total amount required to be withheld under an income  
38 withholding order implemented under this section is the sum of:

- 39 (1) the obligor's current child support obligation; plus
- 40 (2) the amount of arrearage payment ordered by the court; plus
- 41 (3) an additional amount as determined under subsection (f) for:  
42 (A) any arrearage that has not been adjudicated, if no arrearage

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1 has been adjudicated previously; or  
 2 (B) any additional arrearage that:  
 3 (i) has not been adjudicated; and  
 4 (ii) accrues since the last adjudication of arrearage by the  
 5 court.

6 (f) If an obligor subject to an income withholding order is in arrears,  
 7 unless otherwise ordered by a court, the Title IV-D agency or its agent  
 8 may increase the weekly amount withheld as follows:

9 (1) If the arrearages are at least five hundred dollars (\$500) and  
 10 less than three thousand dollars (\$3,000), an additional amount of  
 11 up to twenty dollars (\$20).

12 (2) If the arrearages are at least three thousand dollars (\$3,000)  
 13 and less than five thousand dollars (\$5,000), an additional amount  
 14 of up to twenty-five dollars (\$25).

15 (3) If the arrearages are at least five thousand dollars (\$5,000) and  
 16 less than ten thousand dollars (\$10,000), an additional amount of  
 17 up to thirty dollars (\$30).

18 (4) If the arrearages are at least ten thousand dollars (\$10,000)  
 19 and less than fifteen thousand dollars (\$15,000), an additional  
 20 amount of up to thirty-five dollars (\$35).

21 (5) If the arrearages are at least fifteen thousand dollars (\$15,000)  
 22 and less than twenty thousand dollars (\$20,000), an additional  
 23 amount of up to forty dollars (\$40).

24 (6) If the arrearages are at least twenty thousand dollars (\$20,000)  
 25 and less than twenty-five thousand dollars (\$25,000), an  
 26 additional amount of up to forty-five dollars (\$45).

27 (7) If the arrearages are at least twenty-five thousand dollars  
 28 (\$25,000), an additional amount of up to fifty dollars (\$50).

29 (g) A court is not bound by and is not required to consider the  
 30 additional amounts described in subsection (f) when ordering,  
 31 modifying, or enforcing periodic payments of child support.

32 SECTION 9. IC 31-25-2-21 IS ADDED TO THE INDIANA CODE  
 33 AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE**  
 34 **JANUARY 1, 2009]: Sec. 21. (a) The department shall employ a**  
 35 **sufficient number of administrative law judges to hear and decide**  
 36 **cases under IC 31-25-5.**

37 **(b) An administrative law judge employed by the department is**  
 38 **subject to rules adopted by the department under IC 4-22-2.**  
 39 **IC 4-21.5 does not apply to a proceeding by an administrative law**  
 40 **judge under IC 31-25-5.**

41 **(c) An administrative law judge employed under this section**  
 42 **must be an attorney licensed in Indiana.**

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1 SECTION 10. IC 31-25-4-17, AS AMENDED BY P.L.103-2007,  
2 SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JANUARY 1, 2009]: Sec. 17. (a) The bureau shall do the following:

4 (1) Collect support payments when the payments have been  
5 assigned to the state by the application for assistance under Title  
6 IV-A.

7 (2) Assist in obtaining **or establishing** a support order, including  
8 an order for health insurance coverage under:

9 (A) IC 27-8-23;

10 (B) IC 31-14-11-3; or

11 (C) IC 31-16-6-4;

12 when there is no existing order and assistance is sought.

13 (3) Assist mothers of children born out of wedlock in establishing  
14 paternity and obtaining a support order, including an order for  
15 health insurance coverage under IC 27-8-23, when the mother has  
16 applied for assistance.

17 (4) Implement income withholding in any Title IV-D case:

18 (A) with an arrearage; and

19 (B) without an order issued by a court or an administrative  
20 agency.

21 (5) Enforce intrastate and interstate support orders using high  
22 volume automated enforcement features.

23 (6) Use a simplified procedure for the review and adjustment of  
24 support orders as set forth in 42 U.S.C. 666(a)(10).

25 (b) Whenever the bureau collects support payments on behalf of an  
26 individual who is no longer a member of a household that receives  
27 Title IV-A cash payments, the collected support payments (except  
28 collections made through a federal tax refund offset) shall be promptly  
29 distributed in the following order:

30 (1) Payment to the recipient of the court ordered support  
31 obligation for the month that the support payment is received.

32 (2) Payment to the recipient of the support payment arrearages  
33 that have accrued during any period when the recipient was not a  
34 member of a household receiving Title IV-A assistance.

35 (3) Payment to the state in an amount not to exceed the lesser of:

36 (A) the total amount of past public assistance paid to the  
37 recipient's family; or

38 (B) the amount assigned to the state by the recipient under  
39 IC 12-14-7-1.

40 (4) Payment of support payment arrearages owed to the recipient.

41 (5) Payment of any other support payments payable to the  
42 recipient.

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1 (c) Whenever the bureau receives a payment through a federal tax  
 2 refund offset on behalf of an individual who has received or is  
 3 receiving Title IV-A assistance, the child support payment shall be  
 4 distributed as follows:

5 (1) To the state, an amount not to exceed the lesser of:

6 (A) the total amount of past public assistance paid to the  
 7 individual's family; or

8 (B) the amount assigned to the state by the individual under  
 9 IC 12-14-7-1.

10 (2) To the individual, any amounts remaining after the  
 11 distribution under subdivision (1).

12 (d) Except as provided in section 19.5 of this chapter, whenever the  
 13 bureau collects a child support payment from any source on behalf of  
 14 an individual who has never received Title IV-A assistance, the bureau  
 15 shall forward all money collected to the individual.

16 (e) Whenever the bureau receives a child support payment on behalf  
 17 of an individual who currently receives a Title IV-A cash payment or  
 18 an individual whose cash payment was recouped, the child support  
 19 payment shall be distributed as follows:

20 (1) To the state, an amount not to exceed the lesser of:

21 (A) the total amount of past public assistance paid to the  
 22 individual's family; or

23 (B) the amount assigned to the state by the individual under  
 24 IC 12-14-7-1.

25 (2) To the individual, any amounts remaining after the  
 26 distribution under subdivision (1).

27 (f) Unless otherwise required by federal law, not more than  
 28 seventy-five (75) days after a written request by a recipient, the bureau  
 29 shall provide an accounting report to the recipient that identifies the  
 30 bureau's claim to a child support payment or arrearage.

31 (g) The bureau, the department of child services, and the department  
 32 of state revenue may not charge a custodial parent a fee to seek or  
 33 receive a payment through a federal tax refund offset as described in  
 34 subsection (c).

35 SECTION 11. IC 31-25-5 IS ADDED TO THE INDIANA CODE  
 36 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
 37 JANUARY 1, 2009]:

38 **Chapter 5. Establishment of Paternity and Child Support**

39 **Sec. 1. (a) The department shall implement this chapter as a**  
 40 **pilot program.**

41 **(b) This chapter applies only to counties selected as participants**  
 42 **in the pilot program by the department.**

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**Sec. 2. (a) The department shall serve a notice of financial responsibility to an:**

- (1) obligee; and**
- (2) obligor who:**
  - (A) owes child support under an existing child support order;**
  - (B) is responsible for the support of a child; or**
  - (C) is an alleged biological parent.**

**(b) The notice under subsection (a) must include the following information:**

- (1) A statement that the obligor is required to appear at the date, time, and location stated in the notice for a negotiation conference to determine the obligor's child support obligation.**
- (2) A statement that in the absence of an executed paternity affidavit, the obligor may request a genetic test and that if a genetic test is not:**
  - (A) obtained before the legal establishment of paternity; and**
  - (B) submitted into evidence before the entry of the final order establishing paternity;****a genetic test may not be allowed into evidence at a later date.**
- (3) A statement that the department will issue a default order as described under section 7(a) of this chapter if:**
  - (A) the obligor fails to:**
    - (i) appear for the negotiation conference; or**
    - (ii) reschedule the negotiation conference before the date stated in the notice; and**
  - (B) one (1) or both of the following apply:**
    - (i) The obligor executed a paternity affidavit.**
    - (ii) The results of the genetic test indicate at least a ninety-nine percent (99%) probability that the man is the child's biological father.**
- (4) A statement that the department shall issue a default order as described under section 7(b) of this chapter if:**
  - (A) the obligor fails to:**
    - (i) appear for the negotiation conference; or**
    - (ii) reschedule a negotiation conference before the date stated in the notice; or**
  - (B) the obligor fails to:**
    - (i) take a genetic test as ordered by the department; or**
    - (ii) appear for an appointment to take a genetic test without good cause.**

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- 1 (5) A statement that a default order will be filed with the clerk
- 2 of the court as described under section 15 of this chapter and
- 3 that after the default order is filed with the clerk of the court,
- 4 the default order has all the force, effect, and remedies of an
- 5 order of the court.
- 6 (6) The following:
- 7 (A) The name of the obligee.
- 8 (B) The name and birth date of the child for whom support
- 9 is being sought.
- 10 (7) A statement that the department will apply the child
- 11 support guidelines to determine the obligor's weekly child
- 12 support obligation.
- 13 (8) A statement that in calculating the amount of the obligor's
- 14 weekly child support obligation under the child support
- 15 guidelines, the department will calculate the weekly child
- 16 support obligation using the parties' income information and
- 17 that in the absence of income information, the department
- 18 may calculate the obligor's weekly child support obligation
- 19 using the current minimum wage for a forty (40) hour work
- 20 week.
- 21 (9) A statement that the department may issue an
- 22 administrative subpoena to obtain:
- 23 (A) income information; and
- 24 (B) other information relevant for establishing and
- 25 enforcing a child support obligation.
- 26 (10) A statement that the department may enter a temporary
- 27 order requiring the obligor to pay child support in an amount
- 28 established by applying the child support guidelines.
- 29 (11) If applicable, a statement that the amount of arrears that
- 30 has accrued under an order for child support.
- 31 (12) A statement that fees and costs associated with the
- 32 collection of child support may be assessed against and
- 33 collected from the obligor.
- 34 (13) If applicable, a statement that foster care maintenance
- 35 may be collected against the obligor.
- 36 (14) The interest that may be applied on late child support
- 37 payments.
- 38 (15) A statement that the obligor may assert one (1) or more
- 39 of the following objections in the negotiation conference, and
- 40 that if an objection is not resolved, the department will
- 41 schedule an administrative hearing on the matter:
- 42 (A) The obligor is not the parent of the dependent child.

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- 1           **(B) The dependent child has been adopted by a person**
- 2           **other than the obligor.**
- 3           **(C) The dependent child is emancipated.**
- 4           **(D) There is an existing order of child support that**
- 5           **establishes the obligor's weekly child support obligation.**
- 6           **(16) A statement that medical support will be established in**
- 7           **accordance with IC 31-16-6-4.**
- 8           **(17) A statement that the department may review and adjust**
- 9           **an order for child support in accordance with the:**
- 10           **(A) child support guidelines; and**
- 11           **(B) state laws.**
- 12           **(18) A statement that the obligor is responsible for notifying**
- 13           **the department of a change in the obligor's address or**
- 14           **employment not later than fifteen (15) days after the date of**
- 15           **the change.**
- 16           **(19) Instructions on contacting the department if the obligor**
- 17           **has any questions.**
- 18           **(20) A statement that the obligor has the right to:**
- 19           **(A) consult with an attorney; and**
- 20           **(B) be represented by an attorney at the negotiation**
- 21           **conference.**
- 22           **(21) Other information necessary as determined by the**
- 23           **department.**
- 24           **(c) The department shall serve a notice of financial**
- 25           **responsibility under this section to the obligor and obligee in the**
- 26           **same manner as prescribed under Rule 4.1 of the Indiana Rules of**
- 27           **Trial Procedure.**
- 28           **Sec. 3. (a) The department shall schedule a negotiation**
- 29           **conference not more than thirty (30) days after the date the**
- 30           **department issues the notice of financial responsibility under**
- 31           **section 2 of this chapter.**
- 32           **(b) Except as provided in section 14 of this chapter, an obligor**
- 33           **or obligee who has been served with a notice of financial**
- 34           **responsibility under section 2 of this chapter shall:**
- 35           **(1) appear for the negotiation conference at the date, time,**
- 36           **and location set forth in the notice of financial responsibility;**
- 37           **or**
- 38           **(2) reschedule the negotiation conference with the department**
- 39           **before the date of the negotiation conference as set forth in**
- 40           **the notice of financial responsibility.**
- 41           **(c) The department shall reschedule a negotiation conference as**
- 42           **established in rules adopted by the department under IC 4-22-2.**

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1 (d) If a negotiation conference is rescheduled, the department  
2 shall provide notice to the obligor and obligee of the new date and  
3 time of the negotiation conference in the same manner as  
4 prescribed under Rule 4.1 of the Indiana Rules of Trial Procedure.

5 Sec. 4. (a) If the parties stipulate to an agreement of a child  
6 support obligation at the negotiation conference, the department  
7 shall issue an order of child support that includes the following:

8 (1) The amount of the obligor's weekly child support  
9 obligation.

10 (2) If applicable, the amount of the obligor's child support  
11 arrearage.

12 (3) Instructions on the manner in which the amount under  
13 subdivision (1) or (2) must be paid.

14 (4) The name, birth date, and residential and mailing address  
15 of the:

16 (A) obligor;

17 (B) obligee; and

18 (C) child for whom support is being sought.

19 (5) Other information as required by state law or as  
20 determined by the department.

21 (b) If the department issues an order under this section, the  
22 order may include an order of custody if the parties agree to a  
23 custody arrangement.

24 (c) If the department issues an order under this section, the  
25 order shall establish:

26 (1) parenting time in accordance with the parenting time  
27 guidelines adopted by the Indiana supreme court unless the  
28 mother and father agree to an alternative parenting time  
29 arrangement; or

30 (2) if the mother and father agree to an alternative parenting  
31 time arrangement, the alternative parenting time  
32 arrangement.

33 (d) If the department issues an order under this section, both  
34 parents have the same right to access any records of the child that  
35 a parent may access under the law.

36 (e) The department shall serve an order under this section on  
37 the obligor and obligee in the same manner as prescribed under  
38 Rule 4.1 of the Indiana Rules of Trial Procedure.

39 Sec. 5. (a) If:

40 (1) the parties do not stipulate to an agreement at the  
41 negotiation conference; and

42 (2) in the absence of an executed paternity affidavit, the

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1           **obligor contests paternity;**  
2           **the department shall issue an order for genetic testing of the**  
3           **obligor and continue the negotiation conference to allow for the**  
4           **receipt of the genetic test results.**

5           **(b) If the department issues an order for genetic testing under**  
6           **this section, the department:**

- 7                   **(1) shall pay the costs associated with the genetic test; and**
- 8                   **(2) may recover the costs described under subdivision (1)**  
9                   **from the:**

- 10                           **(A) alleged father if paternity is established; or**
- 11                           **(B) obligee if paternity is not established.**

12           **(c) If the:**

- 13                   **(1) department orders genetic testing under subsection (a);**
- 14                   **and**
- 15                   **(2) results of the genetic test do not indicate at least a**  
16                   **ninety-nine percent (99%) probability that the man is the**  
17                   **child's biological father;**

18           **the department may dismiss the action or take other appropriate**  
19           **action as allowed by law.**

20           **(d) The department shall serve the order for genetic testing to**  
21           **the obligor and obligee in the same manner as prescribed under**  
22           **Rule 4.1 of the Indiana Rules of Trial Procedure.**

23           **Sec. 6. (a) The department shall issue a temporary order of child**  
24           **support if:**

- 25                   **(1) the parties do not stipulate to an agreement at the**  
26                   **negotiation conference; and**
- 27                   **(2) one (1) or both of the following apply:**
  - 28                           **(A) The obligor has executed a paternity affidavit.**
  - 29                           **(B) The results of the genetic test indicate at least a**  
30                           **ninety-nine percent (99%) probability that the man is the**  
31                           **child's biological father.**

32           **(b) If the department issues a temporary order under subsection**  
33           **(a), the department shall:**

- 34                   **(1) file information with the clerk of the court as required**  
35                   **under section 15(b)(2) of this chapter; and**
- 36                   **(2) request an administrative hearing with an administrative**  
37                   **law judge.**

38           **(c) The department shall serve the temporary order of child**  
39           **support to the obligor and obligee in the same manner as**  
40           **prescribed under Rule 4.1 of the Indiana Rules of Trial Procedure.**

41           **Sec. 7. (a) The department shall issue a default order**  
42           **establishing child support against the obligor if:**

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- 1           **(1) an obligor fails to:**
- 2               **(A) appear for the negotiation conference at the time and**
- 3               **location set forth in the notice of financial responsibility;**
- 4               **or**
- 5               **(B) reschedule the negotiation conference with the**
- 6               **department before the date of the negotiation conference**
- 7               **as set forth in the notice of financial responsibility; and**
- 8           **(2) one (1) or more of the following apply:**
- 9               **(A) The obligor has executed a paternity affidavit.**
- 10              **(B) The results of the genetic test indicate at least a**
- 11              **ninety-nine percent (99%) probability that the man is the**
- 12              **child's biological father.**
- 13           **(b) If, in an action to establish paternity and a child support**
- 14           **obligation, the:**
- 15              **(1) obligor fails to:**
- 16                  **(A) appear for the negotiation conference at the time and**
- 17                  **location set forth in the notice of financial responsibility;**
- 18                  **or**
- 19                  **(B) reschedule the negotiation conference with the**
- 20                  **department before the date of the negotiation conference**
- 21                  **as set forth in the notice of financial responsibility; or**
- 22              **(2) obligor fails to:**
- 23                  **(A) take a genetic test as ordered by the department; or**
- 24                  **(B) appear for an appointment to take a genetic test**
- 25                  **without good cause;**
- 26           **the department shall issue a default order of paternity and child**
- 27           **support.**
- 28           **(c) A default order issued under subsection (a) or (b) must**
- 29           **include the following:**
- 30              **(1) The amount of the obligor's weekly child support**
- 31              **obligation.**
- 32              **(2) If applicable, the amount of the obligor's child support**
- 33              **arrearage.**
- 34              **(3) Instructions on the manner in which the amount under**
- 35              **subdivision (1) or (2) must be paid.**
- 36              **(4) The following:**
- 37                  **(A) Name of the obligee.**
- 38                  **(B) Name and birth date of the child for whom support is**
- 39                  **being sought.**
- 40              **(5) For a default order establishing paternity, a statement that**
- 41              **the obligor has been determined to be the child's legal father.**
- 42              **(6) Other information as required by state law or as**

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determined by the department.

(d) The department shall serve a default order issued under this section to the obligor and obligee in the same manner as prescribed under Rule 4.1 of the Indiana Rules of Trial Procedure.

(e) If the department enters a default order under this section, the department, obligor, or obligee may request an administrative hearing on the default order as established in rules adopted by the department under IC 4-22-2.

Sec. 8. (a) Upon request by the department, an obligor, or an obligee under section 7(e) of this chapter, the department shall assign an administrative law judge to hold an administrative hearing on the issue of paternity, if applicable, and child support.

(b) The department shall send notice of the administrative hearing to the obligor and obligee in the same manner as prescribed under Rule 4.1 of the Indiana Rules of Trial Procedure.

Sec. 9. (a) An administrative law judge may not issue a decision as to the validity of a pre-existing court order. However, the department or an administrative law judge may review and adjust an existing child support order in accordance with:

- (1) the child support guidelines; and
- (2) state law.

(b) An administrative law judge shall determine the matter of paternity, if applicable, and child support de novo.

(c) An administrative law judge shall include written findings and conclusions in an order issued by the administrative law judge under this chapter.

(d) An order issued by an administrative law judge shall be served upon the obligor and obligee in the same manner as prescribed under Rule 4.1 of the Indiana Rules of Trial Procedure.

Sec. 10. (a) The department or an administrative law judge shall determine the amount of a child support obligation under this chapter by applying the child support guidelines.

(b) The department or an administrative law judge may issue an administrative subpoena requesting:

- (1) income information; or
- (2) other information relevant for establishing and enforcing an order for child support.

Sec. 11. (a) If a paternity affidavit is executed under IC 16-37-2-2.1, the:

- (1) mother has sole legal custody of the child; and
- (2) father has reasonable parenting time rights in accordance with the parenting time guidelines adopted by the Indiana

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1           supreme court;  
 2           unless another custody or parenting time determination is made by  
 3           a court under IC 31-14.  
 4           (b) If a genetic test is requested after the execution of a  
 5           paternity affidavit and granted by a court under state law, a court  
 6           shall order that the genetic test be paid:  
 7                 (1) from the county general fund of the county in which the  
 8                 child support proceeding occurs; or  
 9                 (2) by the party who requested the genetic test.  
 10           (c) The county shall pay an order issued under subsection (b)(1)  
 11           without an appropriation.  
 12           Sec. 12. (a) An obligor or obligee may file a written request with  
 13           the department for the review and adjustment of:  
 14                 (1) a court order for child support; or  
 15                 (2) an order for child support issued under this chapter.  
 16           (b) The department, not later than sixty (60) days after receipt  
 17           of a request for review and adjustment of child support under this  
 18           section, shall:  
 19                 (1) if the department objects to the request for review and  
 20                 adjustment of child support based upon the failure to meet the  
 21                 requirements under IC 31-16-8-1 or the child support  
 22                 guidelines, notify the requesting party that the request has  
 23                 been denied and advise the party of the party's right to  
 24                 request an administrative hearing; or  
 25                 (2) if the department does not object to the party's request,  
 26                 issue a notice of review and adjustment of child support.  
 27           (c) If a party requests an administrative hearing under this  
 28           section, the administrative law judge shall:  
 29                 (1) hold an administrative hearing not later than sixty (60)  
 30                 days after the administrative law judge receives the request;  
 31                 and  
 32                 (2) determine only the issue of adjustment of child support.  
 33           (d) The department shall serve the obligor and obligee with a  
 34           notice of review and adjustment of child support in the same  
 35           manner as prescribed under Rule 4.1 of the Indiana Rules of Trial  
 36           Procedure.  
 37           (e) A request for review and adjustment of child support shall  
 38           not stay an order for child support issued by the department under  
 39           this chapter.  
 40           Sec. 13. (a) A party may seek judicial review of an order by an  
 41           administrative law judge under this chapter not later than fifteen  
 42           (15) calendar days after the postmark date on the order issued by

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the administrative law judge.

(b) A party may seek judicial review of an order issued under section 4 of this chapter establishing custody of a child and parenting time.

(c) The clerk of the court shall send a notice of the appeal that includes the date and time of the hearing to the:

- (1) appellant;
- (2) appellee;
- (3) department; and
- (4) Title IV-D prosecuting attorney in the county in which the appeal was filed.

(d) A court shall hear an appeal under this section de novo.

Sec. 14. (a) If the department is acting at the request of another state's child support agency, the nonresident obligee is not required to appear at a negotiation conference or an administrative hearing under this chapter.

(b) The department may:

- (1) take evidence related to a child support obligation from a nonresident obligee by telephone deposition or by affidavit; and
- (2) present the evidence at a negotiation conference or an administrative hearing under this chapter.

Sec. 15. (a) The department shall file the information described in subsection (b) with the following:

- (1) The clerk of the court in which an action relating to child support for a child is pending.
- (2) If there is not an action relating to child support for a child pending in a court, the clerk of the court in the county in which the notice of financial responsibility under section 2 of this chapter was issued.

(b) The department shall file the following with a clerk of the court described under subsection (a):

- (1) If the department issues an order of child support under section 4 of this chapter, the following:
  - (A) A copy of the order.
  - (B) A copy of one (1) of the following:
    - (i) An executed paternity affidavit.
    - (ii) A genetic test.
- (2) If the department issues a temporary order under section 6 of this chapter, a copy of the temporary order.
- (3) If the department issues a default order under section 7 of this chapter, the following:

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- 1                   (A) A copy of the default order.
- 2                   (B) If applicable, a copy of the:
- 3                    (i) paternity affidavit; or
- 4                    (ii) result of the genetic test.
- 5                   (4) If an administrative law judge issues an order establishing
- 6                    paternity and child support under section 9 of this chapter,
- 7                    the following:
- 8                    (A) A copy of the order establishing paternity and child
- 9                    support.
- 10                   (B) The:
- 11                    (i) paternity affidavit; or
- 12                    (ii) if applicable, genetic test results.
- 13                   (c) The clerk shall:
- 14                    (1) stamp the date of receipt of a copy of an order establishing
- 15                    paternity, if applicable, and child support under this chapter;
- 16                    and
- 17                    (2) assign the order described under subdivision (1) with a
- 18                    cause number.
- 19                   (d) An order of paternity or child support, or both filed under
- 20                    this section has all the force, effect, and remedies of an order of the
- 21                    court.
- 22                    Sec. 16. The department shall adopt rules under IC 4-22-2 to
- 23                    administer this chapter.
- 24                    SECTION 12. [EFFECTIVE UPON PASSAGE] (a)
- 25                    Notwithstanding IC 31-25-5, as added by this act, the department
- 26                    of child services shall adopt rules to administer IC 31-25-5.
- 27                    (b) This SECTION expires July 1, 2009.
- 28                    SECTION 13. An emergency is declared for this act.

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SENATE MOTION

Madam President: I move that Senator Long be removed as author of Senate Bill 105 and that Senator Steele be substituted therefor.

LONG

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COMMITTEE REPORT

Madam President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 105, 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 Corrections, Criminal and Civil Matters.

(Reference is to SB 105 as introduced.)

LONG, Chairperson

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SENATE MOTION

Madam President: I move that Senator Young R Michael be added as second author of Senate Bill 105.

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## COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred Senate Bill No. 105, 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 3, line 12, after "support," insert "**interest on child support arrearage,**".

Page 3, line 33, delete "who" and insert "**who:**".

Page 3, delete line 34.

Page 3, line 35, after "(1)" insert "**is entitled to**".

Page 3, line 37, delete "seek" and insert "**has sought**".

Page 10, line 13, delete "ten (10)" and insert "**fifteen (15)**".

Page 11, between lines 17 and 18, begin a new line block indented and insert:

**"(5) Other information as required by state law or as determined by the department."**

Page 13, line 42, delete "biological" and insert "**legal**".

Page 14, line 2, delete "necessary" and insert "**as required by state law or**".

Page 15, line 7, delete "affidavit," and insert "**affidavit and granted by a court under state law,**".

Page 15, line 17, delete "thirty (30)" and insert "**sixty (60)**".

Page 15, line 30, delete "ninety (90)" and insert "**sixty (60)**".

Page 16, line 14, after "department" delete "," and insert "**is acting**".

Page 16, line 15, delete "is acting on behalf of a nonresident obligee,".

Page 16, line 20, delete "deposition;" and insert "**deposition or by affidavit;**".

Page 16, delete lines 36 through 37.

Page 16, line 38, delete "(C)" and insert "**(B)**".

Page 16, line 42, delete "the following:".

Page 17, line 1, delete "(A) A" and insert "**a**".

Run in page 16, line 42 through page 17, line 1.

Page 17, delete line 2.

Page 17, delete lines 6 through 8.

Page 17, line 9, delete "(C)" and insert "**(B)**".

Page 17, line 26, delete "child support" and insert "**paternity or child support, or both**".

Page 17, line 32, delete "IC 31-25-5, as" and insert "**IC 31-25-5**".

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Page 17, delete line 33.

and when so amended that said bill do pass.

(Reference is to SB 105 as printed January 15, 2008.)

STEELE, Chairperson

Committee Vote: Yeas 9, Nays 0.

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SENATE MOTION

Madam President: I move that Senate Bill 105 be amended to read as follows:

Page 5, between lines 40 and 41, begin a new paragraph and insert:

**"(c) An administrative law judge employed under this section must be an attorney licensed in Indiana."**

Page 11, line 20, delete "shall:" and insert **"may include an order of custody if the parties agree to a custody arrangement."**

Page 11, delete lines 21 through 34.

Page 11, between lines 34 and 35, begin a new paragraph and insert:

**"(c) If the department issues an order under this section, the order shall establish:**

**(1) parenting time in accordance with the parenting time guidelines adopted by the Indiana supreme court unless the mother and father agree to an alternative parenting time arrangement; or**

**(2) if the mother and father agree to an alternative parenting time arrangement, the alternative parenting time arrangement."**

Page 11, line 35, delete "(c)" and insert "(d)".

Page 11, line 38, delete "(d)" and insert "(e)".

(Reference is to SB 105 as printed January 25, 2008.)

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