



April 3, 2009

**ENGROSSED
HOUSE BILL No. 1511**

DIGEST OF HB 1511 (Updated April 1, 2009 1:50 pm - DI 106)

Citations Affected: IC 31-9; IC 31-14.

Synopsis: Joint legal custody in paternity determinations. Allows a court to award joint legal custody of a child following a determination of paternity. Provides that an award of joint legal custody does not require an equal division of physical custody of the child. Establishes factors for the court to consider in determining whether to grant joint legal custody. Creates a rebuttable presumption that a noncustodial parent convicted of child molesting or child exploitation is not entitled to parenting time rights. Establishes a rebuttable presumption that, if parenting time is granted to a person who has been convicted of child molesting or child exploitation, the parenting time shall be supervised.

Effective: July 1, 2009.

**GiaQuinta, Bell, Yarde,
VanDenburgh**
(SENATE SPONSOR — BRAY)

January 14, 2009, read first time and referred to Committee on Family, Children and Human Affairs.

February 19, 2009, amended, reported — Do Pass.

February 23, 2009, read second time, ordered engrossed. Engrossed.

February 25, 2009, read third time, passed. Yeas 99, nays 0.

SENATE ACTION

March 3, 2009, read first time and referred to Committee on Judiciary.

April 2, 2009, amended, reported favorably — Do Pass.

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EH 1511—LS 6475/DI 110+



April 3, 2009

First Regular Session 116th General Assembly (2009)

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 2008 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1511

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 31-9-2-67 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 67. "Joint legal
3 custody", for purposes of **IC 31-14-13**, IC 31-17-2-13, IC 31-17-2-14,
4 and IC 31-17-2-15, means that the persons awarded joint custody will
5 share authority and responsibility for the major decisions concerning
6 the child's upbringing, including the child's education, health care, and
7 religious training.

8 SECTION 2. IC 31-14-13-2.3 IS ADDED TO THE INDIANA
9 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
10 [EFFECTIVE JULY 1, 2009]: **Sec. 2.3. (a) In a proceeding to which
11 this chapter applies, the court may award legal custody of a child
12 jointly if the court finds that an award of joint legal custody would
13 be in the best interest of the child.**

14 **(b) An award of joint legal custody under this section does not
15 require an equal division of physical custody of the child.**

16 **(c) In determining whether an award of joint legal custody
17 under this section would be in the best interest of the child, the**

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1 court shall consider it a matter of primary, but not determinative,
2 importance that the persons awarded joint legal custody have
3 agreed to an award of joint legal custody. The court shall also
4 consider:

- 5 (1) the fitness and suitability of each of the persons awarded
6 joint legal custody;
- 7 (2) whether the persons awarded joint legal custody are
8 willing and able to communicate and cooperate in advancing
9 the child's welfare;
- 10 (3) the wishes of the child, with more consideration given to
11 the child's wishes if the child is at least fourteen (14) years of
12 age;
- 13 (4) whether the child has established a close and beneficial
14 relationship with both of the persons awarded joint legal
15 custody;
- 16 (5) whether the persons awarded joint legal custody:
17 (A) live in close proximity to each other; and
18 (B) plan to continue to do so;
- 19 (6) the nature of the physical and emotional environment in
20 the home of each of the persons awarded joint legal custody;
21 and
- 22 (7) whether there is a pattern of domestic or family violence.

23 SECTION 3. IC 31-14-13-4 IS AMENDED TO READ AS
24 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. **Except as otherwise**
25 **provided in an order by a court**, the custodial parent may determine
26 the child's upbringing, which includes education, health care, and
27 religious training, unless the court determines that the best interests of
28 the child require a limitation on this authority.

29 SECTION 4. IC 31-14-14-1, AS AMENDED BY P.L.68-2005,
30 SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
31 JULY 1, 2009]: Sec. 1. (a) A noncustodial parent is entitled to
32 reasonable parenting time rights unless the court finds, after a hearing,
33 that parenting time might:

- 34 (1) endanger the child's physical health and well-being; or
 - 35 (2) significantly impair the child's emotional development.
- 36 (b) The court may interview the child in chambers to assist the court
37 in determining the child's perception of whether parenting time by the
38 noncustodial parent might endanger the child's physical health or
39 significantly impair the child's emotional development.

40 (c) **In a hearing under subsection (a), there is a rebuttable**
41 **presumption that a person who has been convicted of:**

- 42 (1) child molesting (IC 35-42-4-3); or

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- 1 (2) child exploitation (IC 35-42-4-4(b));
- 2 **might endanger the child's physical health and well-being or**
- 3 **significantly impair the child's emotional development.**
- 4 **(d) If a court grants parenting time rights to a person who has**
- 5 **been convicted of:**
- 6 (1) child molesting (IC 35-42-4-3); or
- 7 (2) child exploitation (IC 35-42-4-4(b));
- 8 **there is a rebuttable presumption that the parenting time with the**
- 9 **child must be supervised.**
- 10 (⌘) (e) The court may permit counsel to be present at the interview.
- 11 If counsel is present:
- 12 (1) a record may be made of the interview; and
- 13 (2) the interview may be made part of the record for purposes of
- 14 appeal.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Family, Children and Human Affairs, to which was referred House Bill 1511, 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 2, line 18, delete "and".

Page 2, line 20, delete "custody." and insert "**custody; and (7) whether there is a pattern of domestic or family violence.**".

and when so amended that said bill do pass.

(Reference is to HB 1511 as introduced.)

SUMMERS, Chair

Committee Vote: yeas 10, nays 0.

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COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred House Bill No. 1511, 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 2, after line 28, begin a new paragraph and insert:

"SECTION 4. IC 31-14-14-1, AS AMENDED BY P.L.68-2005, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) A noncustodial parent is entitled to reasonable parenting time rights unless the court finds, after a hearing, that parenting time might:

- (1) endanger the child's physical health and well-being; or
- (2) significantly impair the child's emotional development.

(b) The court may interview the child in chambers to assist the court in determining the child's perception of whether parenting time by the noncustodial parent might endanger the child's physical health or significantly impair the child's emotional development.

(c) In a hearing under subsection (a), there is a rebuttable presumption that a person who has been convicted of:

- (1) child molesting (IC 35-42-4-3); or**
- (2) child exploitation (IC 35-42-4-4(b));**

might endanger the child's physical health and well-being or significantly impair the child's emotional development.

(d) If a court grants parenting time rights to a person who has



been convicted of:

- (1) child molesting (IC 35-42-4-3); or**
- (2) child exploitation (IC 35-42-4-4(b));**

there is a rebuttable presumption that the parenting time with the child must be supervised.

~~(c)~~ **(e)** The court may permit counsel to be present at the interview.

If counsel is present:

- (1) a record may be made of the interview; and
- (2) the interview may be made part of the record for purposes of appeal."

and when so amended that said bill do pass.

(Reference is to HB 1511 as printed February 20, 2009.)

BRAY, Chairperson

Committee Vote: Yeas 9, Nays 1.

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