



February 22, 2010

**ENGROSSED  
SENATE BILL No. 149**

DIGEST OF SB 149 (Updated February 22, 2010 1:50 pm - DI 107)

**Citations Affected:** IC 4-21.5; IC 10-13; IC 29-3; IC 31-19; IC 31-25; IC 31-27; IC 31-30; IC 31-33; IC 31-34; IC 31-35; IC 31-40.

**Synopsis:** Department of child services. Removes the department of child services (DCS) from the entities to which a clerk of the court must forward a petition for adoption. Removes language regarding a child protection team being required to provide diagnostic and prognostic services for DCS or a juvenile court. Specifies how a child's death or near fatality may be determined to have been the result of abuse, abandonment, or neglect for purposes of certain records. Removes certain duties of the office of the secretary of family and social services regarding child welfare. Adds additional information required in certain petitions. Requires DCS to be notified of certain guardianship petitions and to be allowed to participate in a hearing on certain guardianship petitions. Permits a court to add conditions for a parent to terminate or modify a guardianship. Requires a court to notify DCS if certain petitions to terminate or modify a guardianship are filed. Removes the requirement that certain guardianship petitions be sent to the prosecuting attorney. Allows a juvenile court to request a probate  
(Continued next page)

**Effective:** Upon passage; July 1, 2010.

**Lawson C, Holdman, Lanane**

(HOUSE SPONSORS — AVERY, BELL)

January 5, 2010, read first time and referred to Committee on Judiciary.  
January 28, 2010, amended, reported favorably — Do Pass.  
February 1, 2010, read second time, amended, ordered engrossed.  
February 2, 2010, engrossed. Read third time, passed. Yeas 43, nays 7.

**HOUSE ACTION**

February 8, 2010, read first time and referred to Committee on Judiciary.  
February 22, 2010, amended, reported — Do Pass.

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court that retains jurisdiction over a guardianship to conduct additional proceedings. Provides that DCS may petition a court if a parent, guardian, or custodian refuses to allow a child to be interviewed. Prohibits the state police department from charging a fee for: (1) fingerprinting expenses related to criminal history checks conducted by the department; and (2) certain limited criminal history background checks conducted by the department. Requires juvenile courts or the department to pay the Federal Bureau of Investigation for costs of certain fingerprinting. Provides that if a juvenile court: (1) issues an order establishing or modifying a guardianship; (2) issues an order modifying child custody, child support, or visitation; (3) issues an order creating or modifying the establishment of paternity; or (4) closes certain child in need of services cases; the court in which the original action was filed, or an appropriate court, shall assume primary jurisdiction and shall conduct additional proceedings if necessary. Adds child caring institutions, group homes, private secure facilities and child placing agencies to the list of entities that may submit a report of suspected child abuse or neglect and then later receive a report from DCS regarding the investigation of the report. Reduces the time for when a prosecutor or DCS attorney must inform parties of the intent to have child testimony outside the courtroom. Removes a provision that states the department is responsible for payment of any costs or expenses for housing or services provided to or for the benefit of a child placed by a juvenile court in a home or facility located outside Indiana only if the director of the department or the director's designee recommends or approves the placement. Provides that the department is responsible for these costs and expenses if a juvenile court places a child in a home or facility that is located outside Indiana and the: (1) juvenile court makes written findings based on clear and convincing evidence that the out-of-state placement is appropriate because there is not a comparable facility with adequate services located in Indiana, the location of the home or facility is within a distance not greater than 50 miles from the county of residence of the child, or the placement is recommended or approved by the director of the department or the director's designee; and (2) the placement is less expensive than similar services that can be provided in Indiana. Provides procedural rights and duties for certain determinations made by the department regarding rates for reimbursement of certain entities. Requires the department to adopt rules regarding the determination of rates for reimbursement of certain entities. Makes a technical correction. Makes other changes.

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February 22, 2010

Second Regular Session 116th General Assembly (2010)

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 2009 Regular and Special Sessions of the General Assembly.

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## ENGROSSED SENATE BILL No. 149

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 4-21.5-2-6, AS AMENDED BY P.L.219-2007,  
2 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2010]: Sec. 6. This article does not apply to the formulation,  
4 issuance, or administrative review (but does apply to the judicial  
5 review and civil enforcement) of any of the following:  
6 (1) Except as provided in IC 12-17.2-4-18.7 and  
7 IC 12-17.2-5-18.7, determinations by the division of family  
8 resources. ~~and the department of child services.~~  
9 (2) Determinations by the department of child services:  
10 (A) ~~except as provided in IC 12-17.2-4-18.7 and~~  
11 ~~IC 12-17.2-5-18.7; and~~  
12 (B) ~~except for determinations by the department of child~~  
13 ~~services:~~  
14 (i) ~~concerning providers; and~~  
15 (ii) ~~setting rates for reimbursement of licensed child~~

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**caring institutions, licensed group homes, licensed foster family homes, and licensed placing agencies.**

- ~~(2)~~ (3) Determinations by the alcohol and tobacco commission.
- ~~(3)~~ (4) Determinations by the office of Medicaid policy and planning concerning recipients and applicants of Medicaid. However, this article does apply to determinations by the office of Medicaid policy and planning concerning providers.

SECTION 2. IC 10-13-3-27.5, AS AMENDED BY P.L.138-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 27.5. (a) If:

- (1) exigent circumstances require the emergency placement of a child; and
- (2) the department will be unable to obtain criminal history information from the Interstate Identification Index before the emergency placement is scheduled to occur;

upon request of the department of child services established by IC 31-25-1-1, a caseworker, or a juvenile probation officer, the department may conduct a national name based criminal history record check of each individual who is at least eighteen (18) years of age and who is currently residing in the location designated as the out-of-home placement at the time the child will reside in the location. The department shall promptly transmit a copy of the report it receives from the Interstate Identification Index to the agency or person that submitted a request under this section.

(b) Not later than seventy-two (72) hours after the department of child services, the caseworker, or the juvenile probation officer receives the results of the national name based criminal history record check, the department of child services, the caseworker, or the juvenile probation officer shall provide the department with a complete set of fingerprints for each individual who is at least eighteen (18) years of age and who is currently residing in the location designated as the out-of-home placement at the time the child will be placed in the location. The department shall:

- (1) use fingerprint identification to positively identify each individual whose fingerprints are provided to the department under this subsection; or
- (2) submit the fingerprints to the Federal Bureau of Investigation not later than fifteen (15) calendar days after the date on which the national name based criminal history record check was conducted.

The child shall be removed from the location designated as the out-of-home placement if an individual who is at least eighteen (18)

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1 years of age and who is currently residing in the location designated as  
2 the out-of-home placement at the time the child will reside in the  
3 location fails to provide a complete set of fingerprints to the department  
4 of child services, the caseworker, or the juvenile probation officer.

5 (c) The department and the person or agency that provided  
6 fingerprints shall comply with all requirements of 42 U.S.C. 5119a and  
7 any other applicable federal law or regulation regarding:

- 8 (1) notification to the subject of the check; and
- 9 (2) the use of the results obtained based on the check of the  
10 person's fingerprints.

11 (d) If an out-of-home placement is denied as the result of a national  
12 name based criminal history record check, an individual who is the  
13 subject of the name based criminal history record check may contest  
14 the denial by submitting to the department of child services, the  
15 caseworker, or the juvenile probation officer:

- 16 (1) a complete set of the individual's fingerprints; and
- 17 (2) written authorization permitting the department of child  
18 services, the caseworker, or the juvenile probation officer to  
19 forward the fingerprints to the department for submission to the  
20 Federal Bureau of Investigation;

21 not later than five (5) days after the out-of-home placement is denied.

- 22 (e) The  
23 (†) department and  
24 (‡) Federal Bureau of Investigation

25 may charge a reasonable fee for processing a national name based  
26 criminal history record check. The department shall adopt rules under  
27 IC 4-22-2 to establish a reasonable fee for processing a national name  
28 based criminal history record check and for collecting fees owed under  
29 this subsection.

- 30 (f) The:  
31 (1) department of child services, for an out-of-home placement  
32 arranged by a caseworker or the department of child services; or  
33 (2) juvenile court, for an out-of-home placement ordered by the  
34 juvenile court;

35 shall pay the fee described in subsection (e), arrange for fingerprinting,  
36 and pay the **Federal Bureau of Investigation for the** costs of  
37 fingerprinting, if any.

38 **(g) The department may not charge a fee for responding to a**  
39 **request for a fingerprint based national criminal history**  
40 **background check made by the department of child services under**  
41 **this section.**

42 SECTION 3. IC 10-13-3-39, AS AMENDED BY P.L.3-2008,

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1 SECTION 85, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
2 JULY 1, 2010]: Sec. 39. (a) The department is designated as the  
3 authorized agency to receive requests for, process, and disseminate the  
4 results of national criminal history background checks that comply with  
5 this section and 42 U.S.C. 5119a.

6 (b) A qualified entity may contact the department to request a  
7 national criminal history background check on any of the following  
8 persons:

9 (1) A person who seeks to be or is employed with the qualified  
10 entity. A request under this subdivision must be made not later  
11 than three (3) months after the person is initially employed by the  
12 qualified entity.

13 (2) A person who seeks to volunteer or is a volunteer with the  
14 qualified entity. A request under this subdivision must be made  
15 not later than three (3) months after the person initially volunteers  
16 with the qualified entity.

17 (3) A person for whom a national criminal history background  
18 check is required under any law relating to the licensing of a  
19 home, center, or other facility for purposes of day care or  
20 residential care of children.

21 (4) A person for whom a national criminal history background  
22 check is required for purposes of placement of a child in a foster  
23 family home, a prospective adoptive home, or the home of a  
24 relative or other caretaker, or for purposes of a report concerning  
25 an adoption as required by IC 31-19-8.

26 (c) A qualified entity must submit a request under subsection (b) in  
27 the form required by the department and provide a set of the person's  
28 fingerprints and any required fees with the request. **The department  
29 may not charge a fee for responding to a request for a national  
30 criminal history background check made by the department of  
31 child services if the request is made as a part of a background  
32 investigation of an applicant for purposes of placement of a child  
33 in a foster family home, a prospective adoptive home, or the home  
34 of a relative or other caretaker.**

35 (d) If a qualified entity makes a request in conformity with  
36 subsection (b), the department shall submit the set of fingerprints  
37 provided with the request to the Federal Bureau of Investigation for a  
38 national criminal history background check. The department shall  
39 respond to the request in conformity with:

- 40 (1) the requirements of 42 U.S.C. 5119a; and  
41 (2) the regulations prescribed by the Attorney General of the  
42 United States under 42 U.S.C. 5119a.

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- 1 (e) Subsection (f):  
 2 (1) applies to a qualified entity that:  
 3 (A) is not a school corporation or a special education  
 4 cooperative; or  
 5 (B) is a school corporation or a special education cooperative  
 6 and seeks a national criminal history background check for a  
 7 volunteer; and  
 8 (2) does not apply to a qualified entity that is a:  
 9 (A) home health agency licensed under IC 16-27-1; or  
 10 (B) personal services agency licensed under IC 16-27-4.  
 11 (f) After receiving the results of a national criminal history  
 12 background check from the Federal Bureau of Investigation, the  
 13 department shall make a determination whether the person who is the  
 14 subject of a request has been convicted of:  
 15 (1) an offense described in IC 20-26-5-11;  
 16 (2) in the case of a foster family home, an offense described in  
 17 IC 31-27-4-13(a);  
 18 (3) in the case of a prospective adoptive home, an offense  
 19 described in IC 31-19-11-1(c);  
 20 (4) any other felony; or  
 21 (5) any misdemeanor;  
 22 and convey the determination to the requesting qualified entity.  
 23 (g) This subsection applies to a qualified entity that:  
 24 (1) is a school corporation or a special education cooperative; and  
 25 (2) seeks a national criminal history background check to  
 26 determine whether to employ or continue the employment of a  
 27 certificated employee or a noncertificated employee of a school  
 28 corporation or an equivalent position with a special education  
 29 cooperative.  
 30 After receiving the results of a national criminal history background  
 31 check from the Federal Bureau of Investigation, the department may  
 32 exchange identification records concerning convictions for offenses  
 33 described in IC 20-26-5-11 with the school corporation or special  
 34 education cooperative solely for purposes of making an employment  
 35 determination. The exchange may be made only for the official use of  
 36 the officials with authority to make the employment determination. The  
 37 exchange is subject to the restrictions on dissemination imposed under  
 38 P.L.92-544, (86 Stat. 1115) (1972).  
 39 (h) This subsection applies to a qualified entity (as defined in  
 40 IC 10-13-3-16) that is a public agency under IC 5-14-1.5-2(a)(1). After  
 41 receiving the results of a national criminal history background check  
 42 from the Federal Bureau of Investigation, the department shall provide

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1 a copy to the public agency. Except as permitted by federal law, the  
2 public agency may not share the information contained in the national  
3 criminal history background check with a private agency.

4 (i) This subsection applies to a qualified entity that is a:

- 5 (1) home health agency licensed under IC 16-27-1; or
- 6 (2) personal services agency licensed under IC 16-27-4.

7 After receiving the results of a national criminal history background  
8 check from the Federal Bureau of Investigation, the department shall  
9 make a determination whether the applicant has been convicted of an  
10 offense described in IC 16-27-2-5(a) and convey the determination to  
11 the requesting qualified entity.

12 SECTION 4. IC 29-3-5-1 IS AMENDED TO READ AS FOLLOWS  
13 [EFFECTIVE JULY 1, 2010]: Sec. 1. (a) Any person may file a petition  
14 for the appointment of a person to serve as guardian for an  
15 incapacitated person or minor under this chapter or to have a protective  
16 order issued under IC 29-3-4. The petition must state the following:

- 17 (1) The name, age, residence, and post office address of the  
18 alleged incapacitated person or minor for whom the guardian is  
19 sought to be appointed.
- 20 (2) The nature of the incapacity.
- 21 (3) The approximate value and description of the property of the  
22 incapacitated person or minor, including any compensation,  
23 pension, insurance, or allowance to which the incapacitated  
24 person or minor may be entitled.
- 25 (4) If a limited guardianship is sought, the particular limitations  
26 requested.
- 27 (5) Whether a guardian has been appointed or is acting for the  
28 incapacitated person or minor in any state.
- 29 (6) The residence and post office address of the proposed  
30 guardian and the proposed guardian's relationship to the alleged  
31 incapacitated person.
- 32 (7) The names and addresses, as far as known or as can  
33 reasonably be ascertained, of the persons most closely related by  
34 blood or marriage to the person for whom the guardian is sought  
35 to be appointed.
- 36 (8) The name and address of the person or institution having the  
37 care and custody of the person for whom the guardian is sought  
38 to be appointed.
- 39 (9) The names and addresses of any other incapacitated persons  
40 or minors for whom the proposed guardian is acting if the  
41 proposed guardian is an individual.
- 42 (10) The reasons the appointment of a guardian is sought and the

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interest of the petitioner in the appointment.

(11) The name and business address of the attorney who is to represent the guardian.

**(12) A statement whether a child in need of services petition or a program of informal adjustment has been filed regarding the minor for whom a guardianship is sought, and, if so, whether the case is open at the time the guardianship petition is filed.**

(b) Notice of a petition under this section for the appointment of a guardian and the hearing on the petition shall be given under IC 29-3-6.

(c) After the filing of a petition, the court shall set a date for hearing on the issues raised by the petition. Unless an alleged incapacitated person is already represented by counsel, the court may appoint an attorney to represent the incapacitated person.

(d) A person alleged to be an incapacitated person must be present at the hearing on the issues raised by the petition and any response to the petition unless the court determines by evidence that:

(1) it is impossible or impractical for the alleged incapacitated person to be present due to the alleged incapacitated person's disappearance, absence from the state, or similar circumstance;

(2) it is not in the alleged incapacitated person's best interest to be present because of a threat to the health or safety of the alleged incapacitated person as determined by the court;

(3) the incapacitated person has knowingly and voluntarily consented to the appointment of a guardian or the issuance of a protective order and at the time of such consent the incapacitated person was not incapacitated as a result of a mental condition that would prevent that person from knowingly and voluntarily consenting; or

(4) the incapacitated person has knowingly and voluntarily waived notice of the hearing and at the time of such waiver the incapacitated person was not incapacitated as a result of a mental condition that would prevent that person from making a knowing and voluntary waiver of notice.

(e) A person alleged to be an incapacitated person may present evidence and cross-examine witnesses at the hearing. The issues raised by the petition and any response to the petition shall be determined by a jury if a jury is requested no later than seventy-two (72) hours prior to the original date and time set for the hearing on the petition. However, in no event may a request for a jury trial be made after thirty (30) days have passed following the service of notice of a petition.

(f) Any person may apply for permission to participate in the

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1 proceeding, and the court may grant the request with or without hearing  
2 upon determining that the best interest of the alleged incapacitated  
3 person or minor will be served by permitting the applicant's  
4 participation. The court may attach appropriate conditions to the  
5 permission to participate.

6 **(g) The department of child services shall be notified and be  
7 allowed to participate in a hearing under this section if there:**

8 **(1) has been a child in need of services case filed; or**

9 **(2) is a program of informal adjustment pending;  
10 involving a minor.**

11 SECTION 5. IC 29-3-8-9 IS ADDED TO THE INDIANA CODE  
12 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
13 1, 2010]: **Sec. 9. (a) A probate or juvenile court may include in its  
14 order creating a guardianship of a minor the following  
15 requirements:**

16 **(1) That the minor must reside with the guardian until the  
17 guardianship is terminated or modified.**

18 **(2) Any terms and conditions that a parent must meet in order  
19 to seek modification or termination of the guardianship.**

20 **(b) Except as provided in IC 29-3-12, if an order creating a  
21 guardianship contains conditions described in subsection (a)(2), the  
22 court may modify or terminate the guardianship only if the parent:**

23 **(1) complies with the terms and conditions; and**

24 **(2) proves the parent's current fitness to assume all parental  
25 obligations by a preponderance of the evidence.**

26 **(c) If:**

27 **(1) a petition is filed for modification, resignation, or removal  
28 of the guardian or termination of the guardianship before the  
29 terms and conditions described in subsection (a)(2) are  
30 proven; and**

31 **(2) the child:**

32 **(A) was the subject of a petition alleging the child to be a  
33 child in need of services; or**

34 **(B) is in a program of informal adjustment;**

35 **the petition shall be referred to the department of child services to  
36 determine placement of the child in accordance with the best  
37 interests of the child.**

38 **(d) A court shall notify the department of child services if:**

39 **(1) a guardianship is created concerning a child who is subject  
40 to a:**

41 **(A) petition alleging the child to be a child in need of  
42 services; or**

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1                   **(B) program of informal adjustment; and**  
2                   **(2) at least one (1) of the following petitions is filed:**  
3                   **(A) A petition to modify or terminate the guardianship.**  
4                   **(B) Any petitions regarding the:**  
5                       **(i) death;**  
6                       **(ii) resignation; or**  
7                       **(iii) removal;**  
8                   **of the guardian and any related hearings.**  
9                   **(e) At a hearing regarding a petition filed under this section and**  
10                   **if the child was the subject of a petition alleging the child to be a**  
11                   **child in need of services or is in a program of informal adjustment,**  
12                   **the court shall:**  
13                       **(1) consider the position of the department of child services;**  
14                       **and**  
15                       **(2) if requested by the department of child services, allow the**  
16                       **department of child services to present evidence regarding:**  
17                           **(A) whether the guardianship should be modified or**  
18                           **terminated;**  
19                           **(B) the fitness of the parent to provide for the care and**  
20                           **supervision of the minor at the time of the hearing;**  
21                           **(C) the appropriate care and placement of the child; and**  
22                           **(D) the best interests of the child.**  
23                   SECTION 6. IC 31-19-2-12, AS AMENDED BY P.L.131-2009,  
24                   SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
25                   JULY 1, 2010]: Sec. 12. As soon as a petition for adoption is found to  
26                   be in proper form, the clerk of the court shall forward one (1) copy of  
27                   the petition for adoption to  
28                       ~~(1)~~ a licensed child placing agency as described in IC 31-19-7-1,  
29                       with preference to be given to the agency, if any, sponsoring the  
30                       adoption, as shown by the petition for adoption. ~~and~~  
31                       ~~(2) the department.~~  
32                   SECTION 7. IC 31-19-9-14 IS AMENDED TO READ AS  
33                   FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 14. **Except as**  
34                   **provided in section 17(b) of this chapter,** a putative father whose  
35                   consent to adoption of a child is implied under this chapter or  
36                   IC 31-19-5-18 is not entitled to establish paternity under IC 31-14.  
37                   SECTION 8. IC 31-25-2-18, AS ADDED BY P.L.145-2006,  
38                   SECTION 271, IS AMENDED TO READ AS FOLLOWS  
39                   [EFFECTIVE JULY 1, 2010]: Sec. 18. **(a)** The department may adopt  
40                   rules under IC 4-22-2 necessary to carry out the department's or  
41                   bureau's duties under this article.  
42                       **(b) The department shall adopt rules under IC 4-22-2 regarding**

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1 **the determination of rates for reimbursement of licensed child**  
2 **caring institutions, licensed group homes, licensed foster family**  
3 **homes, and licensed placing agencies.**

4 SECTION 9. IC 31-27-4-5, AS AMENDED BY P.L.138-2007,  
5 SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
6 JULY 1, 2010]: Sec. 5. (a) An applicant must apply for a foster family  
7 home license on forms provided by the department.

8 (b) An applicant must submit the required information as part of the  
9 application.

10 (c) An applicant must submit with the application a statement  
11 attesting the following:

- 12 (1) ~~That Whether~~ the applicant has ~~not~~ been convicted of:
  - 13 (A) a felony; or
  - 14 (B) a misdemeanor relating to the health and safety of
  - 15 children.

- 16 (2) ~~That Whether~~ the applicant has ~~not~~ been charged with:
  - 17 (A) a felony; or
  - 18 (B) a misdemeanor relating to the health and safety of
  - 19 children;

20 during the pendency of the application.

21 (d) An applicant shall submit the necessary information, forms, or  
22 consents for the department to conduct a criminal history check for  
23 each individual who is an applicant.

24 (e) The department or, at the discretion of the department, an  
25 applicant, shall conduct a criminal history check of:

- 26 (1) the applicant's employees and volunteers who have or will
- 27 have direct contact, on a regular and continuing basis, with
- 28 children who are or will be under the direct supervision of the
- 29 applicant; and
- 30 (2) all household members who are at least fourteen (14) years of
- 31 age.

32 (f) If the applicant conducts criminal history checks under  
33 subsection (e), the applicant shall maintain records of the information  
34 received concerning each individual subject of a criminal history  
35 check.

36 (g) If the department conducts a criminal history check on behalf of  
37 an applicant under subsection (e), the department shall:

- 38 (1) make a determination whether the subject of a national
- 39 fingerprint based criminal history check has a record of a
- 40 conviction for:
  - 41 (A) a felony; or
  - 42 (B) a misdemeanor relating to the health and safety of a child;

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- 1 (2) notify the applicant of the determination under subdivision (1)
- 2 without identifying a specific offense or other identifying
- 3 information concerning a conviction contained in the national
- 4 criminal history record information;
- 5 (3) submit to the applicant a copy of any state limited criminal
- 6 history report that the department receives on behalf of any person
- 7 described in subsection (e); and
- 8 (4) maintain a record of every report and all information the
- 9 department receives concerning a person described in subsection
- 10 (e).

11 (h) Except as provided in subsection (i), a criminal history check  
 12 described in subsection (e) is required only at the time an application  
 13 for a new license or the renewal of an existing license is submitted.

14 (i) With the exception of a fingerprint based criminal history  
 15 background check under IC 31-9-2-22.5(1)(B) for a person described  
 16 in subsection (e)(1), a criminal history check concerning a person  
 17 described in subsection (e) must be completed on or before the date on  
 18 which the subject of the check is first employed or assigned as a  
 19 volunteer in a position described in subsection (e)(1) or first becomes  
 20 a resident of the applicant's household as described in subsection  
 21 (e)(2). A fingerprint based criminal history background check under  
 22 IC 31-9-2-22.5(1)(B) for a person described in subsection (e)(1) must  
 23 be completed not later than the conclusion of the first ninety (90) days  
 24 of employment in or assignment of a volunteer. However, if a person  
 25 described in this subsection has been the subject of a criminal history  
 26 check that was conducted not more than one (1) year before the date  
 27 the license application is submitted to the department, a new criminal  
 28 history check of that person is not required.

29 (j) An applicant or a licensee described in subsection (e)(1) may  
 30 provisionally employ an individual or assign a volunteer for whom a  
 31 criminal history check is required during the period after the process of  
 32 requesting fingerprint based criminal history background check  
 33 information has been initiated by or on behalf of the applicant or  
 34 licensee but before the determination is obtained by or communicated  
 35 to the applicant or licensee. If the determination is not received by not  
 36 later than ninety (90) days after the effective date of hire or volunteer  
 37 assignment, the employee or volunteer relationship must be terminated  
 38 or suspended until a determination is received. An employee or  
 39 volunteer whose determination has not yet been received may not have  
 40 direct contact with a child who is or will be placed at a facility operated  
 41 by the applicant or licensee unless the direct contact occurs only in the  
 42 presence of a volunteer or employee of the applicant or licensee who

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1 has been the subject of a completed and approved criminal history  
2 check. In determining whether to provisionally hire or assign as a  
3 volunteer an individual described in subsection (e)(1), the applicant or  
4 licensee shall consider the following:

- 5 (1) The training time required by an employee or a volunteer.
- 6 (2) The safety and security of the children under the supervision  
7 of the applicant or licensee.
- 8 (3) The safety and security of the other staff and volunteers  
9 working under the supervision of the applicant or licensee.
- 10 (4) The staffing concerns of the applicant or licensee.
- 11 (5) Any other factor relating to the safety and security of the  
12 applicant's or licensee's operations.

13 (k) The department shall, at the applicant's request, inform the  
14 applicant whether the department has or does not have a record of the  
15 person who is the subject of a criminal history background check and  
16 if the department has identified the person as an alleged perpetrator of  
17 abuse or neglect. The department may not provide to the applicant any  
18 details or personally identifying information contained in any child  
19 protective investigation report.

20 (l) A person who is the subject of a criminal history check  
21 conducted in accordance with this section may request the state police  
22 department to provide the person with a copy of any state or national  
23 criminal history report concerning the person.

24 SECTION 10. IC 31-30-1-6, AS AMENDED BY P.L.145-2006,  
25 SECTION 275, IS AMENDED TO READ AS FOLLOWS  
26 [EFFECTIVE JULY 1, 2010]: Sec. 6. (a) Subject to subsections (b) and  
27 (c), this article does not prohibit a probate court from exercising its  
28 jurisdiction over guardianship of a person who is less than eighteen  
29 (18) years of age.

30 (b) If allegations in the petition for guardianship or allegations  
31 produced at guardianship proceedings indicate that the person for  
32 whom the guardianship is requested meets the definition of a child in  
33 need of services under IC 31-34-1, the probate court on its own motion  
34 or at the request of a party shall:

- 35 (1) send the petition for guardianship or the record of  
36 guardianship proceedings, or both, to ~~the prosecuting attorney or~~  
37 ~~the attorney for the department of child services; and~~
- 38 (2) direct the ~~prosecuting attorney or the~~ attorney for the  
39 department of child services to initiate an investigation and  
40 proceedings in the juvenile court to determine whether the person  
41 for whom the guardianship is requested is a child in need of  
42 services.

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1 (c) The probate court retains jurisdiction over the matter until the  
2 juvenile court authorizes the filing of a petition under IC 31-34-9.

3 **(d) If a juvenile court issues an order establishing or modifying**  
4 **a guardianship over a minor:**

- 5 **(1) the probate court that retains jurisdiction over the case; or**
- 6 **(2) an appropriate court in that county;**

7 **shall conduct additional proceedings if the juvenile court requests**  
8 **the additional proceedings.**

9 SECTION 11. IC 31-30-1-12 IS AMENDED TO READ AS  
10 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 12. (a) Subject to  
11 subsection (b), a court having jurisdiction under IC 31-17-2 of a child  
12 custody proceeding in a marriage dissolution has concurrent original  
13 jurisdiction with the juvenile court for the purpose of modifying  
14 custody of a child who is under the jurisdiction of the juvenile court  
15 because:

- 16 (1) the child is the subject of a child in need of services  
17 proceeding;
- 18 (2) the child is the subject of a juvenile delinquency proceeding  
19 that does not involve an act described under IC 31-37-1-2; or
- 20 (3) the child is the subject of a paternity proceeding.

21 (b) Whenever the court having child custody jurisdiction under  
22 IC 31-17-2 in a marriage dissolution modifies child custody as  
23 provided by this section, the modification is effective only when the  
24 juvenile court:

- 25 (1) enters an order approving the child custody modification; or
- 26 (2) terminates the child in need of services proceeding, the  
27 juvenile delinquency proceeding, or the paternity proceeding.

28 **(c) If a juvenile court issues an order modifying child custody,**  
29 **child support, or visitation, the juvenile court may terminate the**  
30 **child in need of services proceeding or the juvenile delinquency**  
31 **proceeding.**

32 **(d) If:**

- 33 **(1) child custody, child support, or visitation is modified; and**
- 34 **(2) a child in need of services proceeding or a juvenile**  
35 **delinquency proceeding is terminated;**

36 **under subsection (c), the court having concurrent original**  
37 **jurisdiction under subsection (a) shall assume or reassume primary**  
38 **jurisdiction of the case to address all issues, including whether the**  
39 **juvenile court order regarding child custody, child support, or**  
40 **visitation should be modified.**

41 **(e) An order modifying child custody, child support, or**  
42 **visitation issued under this section survives the termination of the**

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1 **child in need of services proceeding or the juvenile delinquency**  
2 **proceeding, until the court having concurrent or original**  
3 **jurisdiction assumes primary jurisdiction and modifies the order.**

4 SECTION 12. IC 31-30-1-13 IS AMENDED TO READ AS  
5 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 13. (a) Subject to  
6 subsection (b), a court having jurisdiction under IC 31-14 of a child  
7 custody proceeding in a paternity proceeding has concurrent original  
8 jurisdiction with another juvenile court for the purpose of modifying  
9 custody of a child who is under the jurisdiction of the other juvenile  
10 court because:

11 (1) the child is the subject of a child in need of services  
12 proceeding; or

13 (2) the child is the subject of a juvenile delinquency proceeding  
14 that does not involve an act described under IC 31-37-1-2.

15 (b) Whenever the court having child custody jurisdiction under  
16 IC 31-14 in a paternity proceeding modifies child custody as provided  
17 by this section, the modification is effective only when the juvenile  
18 court with jurisdiction over the child in need of services proceeding or  
19 juvenile delinquency proceeding:

20 (1) enters an order approving the child custody modification; or

21 (2) terminates the child in need of services proceeding or the  
22 juvenile delinquency proceeding.

23 **(c) If a juvenile court issues an order creating or modifying the**  
24 **establishment of paternity under this section, the juvenile court**  
25 **may terminate the child in need of services proceeding or the**  
26 **juvenile delinquency proceeding.**

27 **(d) If:**

28 **(1) paternity is created or modified; and**

29 **(2) a child in need of services proceeding or a juvenile**  
30 **delinquency proceeding is terminated;**

31 **under subsection (c), the court having concurrent original**  
32 **jurisdiction under subsection (a) shall assume or reassume primary**  
33 **jurisdiction of the case to address all other issues.**

34 **(e) An order creating or modifying paternity under this section**  
35 **survives the termination of the child in need of services proceeding**  
36 **or the juvenile delinquency proceeding.**

37 SECTION 13. IC 31-33-3-5, AS AMENDED BY P.L.234-2005,  
38 SECTION 104, IS AMENDED TO READ AS FOLLOWS  
39 [EFFECTIVE JULY 1, 2010]: Sec. 5. The community child protection  
40 team

41 ~~(1)~~ shall provide diagnostic and prognostic services for the  
42 department or the juvenile court; and

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1           (2) may recommend to the department that a petition be filed in  
2           the juvenile court on behalf of the subject child if the team  
3           believes this would best serve the interests of the child.

4           SECTION 14. IC 31-33-7-8, AS AMENDED BY P.L.131-2009,  
5           SECTION 42, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
6           JULY 1, 2010]: Sec. 8. (a) This section applies if the department  
7           receives a report of suspected child abuse or neglect from:

- 8           (1) a hospital;
- 9           (2) a community mental health center;
- 10          (3) a managed care provider (as defined in IC 12-7-2-127(b));
- 11          (4) a referring physician;
- 12          (5) a dentist;
- 13          (6) a licensed psychologist; or
- 14          (7) a school;
- 15          **(8) a child caring institution licensed under IC 31-27;**
- 16          **(9) a group home licensed under IC 31-27 or IC 12-28-4;**
- 17          **(10) a private secure facility; or**
- 18          **(11) a child placing agency.**

19          (b) Not later than thirty (30) days after the date the department  
20          receives a report of suspected child abuse or neglect from a person  
21          described in subsection (a), the department shall send a report to:

- 22          (1) the administrator of the hospital;
- 23          (2) the community mental health center;
- 24          (3) the managed care provider;
- 25          (4) the referring physician;
- 26          (5) the dentist; or
- 27          (6) the principal of the school;
- 28          **(7) the licensed psychologist;**
- 29          **(8) the child caring institution;**
- 30          **(9) the group home;**
- 31          **(10) the private secure facility; or**
- 32          **(11) the child placing agency.**

33          The report must contain the items listed in subsection (e) that are  
34          known at the time the report is sent.

35          (c) Not later than ninety (90) days after the date the department  
36          receives a report of suspected child abuse or neglect, the department  
37          shall send a report that contains any additional items listed in  
38          subsection (e) that were not covered in the prior report if available.

39          (d) The administrator, director, referring physician, dentist, licensed  
40          psychologist, or principal may appoint a designee to receive the report.

41          (e) A report made by the department under this section must contain  
42          the following information:

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- 1 (1) The name of the alleged victim of child abuse or neglect.
- 2 (2) The name of the alleged perpetrator and the alleged
- 3 perpetrator's relationship to the alleged victim.
- 4 (3) Whether the case is closed.
- 5 (4) Whether information concerning the case has been expunged.
- 6 (5) The name of any agency to which the alleged victim has been
- 7 referred.
- 8 (6) Whether the department has made an assessment of the case
- 9 and has not taken any further action.
- 10 (7) Whether a substantiated case of child abuse or neglect was
- 11 informally adjusted.
- 12 (8) Whether the alleged victim was referred to the juvenile court
- 13 as a child in need of services.
- 14 (9) Whether the alleged victim was returned to the victim's home.
- 15 (10) Whether the alleged victim was placed in residential care
- 16 outside the victim's home.
- 17 (11) Whether a wardship was established for the alleged victim.
- 18 (12) Whether criminal action is pending or has been brought
- 19 against the alleged perpetrator.
- 20 (13) A brief description of any casework plan that has been
- 21 developed by the department.
- 22 (14) The caseworker's name and telephone number.
- 23 (15) The date the report is prepared.
- 24 (16) Other information that the department may prescribe.
- 25 (f) A report made under this section:
- 26 (1) is confidential; and
- 27 (2) may be made available only to:
- 28 (A) the agencies named in this section; and
- 29 (B) the persons and agencies listed in IC 31-33-18-2.
- 30 SECTION 15. IC 31-33-8-7, AS AMENDED BY P.L.131-2009,
- 31 SECTION 46, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 32 JULY 1, 2010]: Sec. 7. (a) The department's assessment, to the extent
- 33 that is reasonably possible, must include the following:
- 34 (1) The nature, extent, and cause of the known or suspected child
- 35 abuse or neglect.
- 36 (2) The identity of the person allegedly responsible for the child
- 37 abuse or neglect.
- 38 (3) The names and conditions of other children in the home.
- 39 (4) An evaluation of the parent, guardian, custodian, or person
- 40 responsible for the care of the child.
- 41 (5) The home environment and the relationship of the child to the
- 42 parent, guardian, or custodian or other persons responsible for the

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1 child's care.  
 2 (6) All other data considered pertinent.  
 3 (b) The assessment may include the following:  
 4 (1) A visit to the child's home.  
 5 (2) An interview with the subject child.  
 6 (3) A physical, psychological, or psychiatric examination of any  
 7 child in the home.  
 8 (c) If:  
 9 (1) admission to the home, the school, or any other place that the  
 10 child may be; or  
 11 (2) permission of the parent, guardian, custodian, or other persons  
 12 responsible for the child for the physical, psychological, or  
 13 psychiatric examination;  
 14 under subsection (b) cannot be obtained, the juvenile court, upon good  
 15 cause shown, shall follow the procedures under IC 31-32-12.  
 16 **(d) If a custodial parent, guardian, or custodian refuses to allow**  
 17 **the department to interview a child after the family case manager**  
 18 **has attempted to obtain parental consent to interview the child, the**  
 19 **department may petition a court to order the parent, guardian, or**  
 20 **custodian to make the child available to be interviewed by the**  
 21 **family case manager. If the court:**  
 22 **(1) receives information that the parent, guardian, or**  
 23 **custodian has been informed of the hearing; and**  
 24 **(2) finds that the department has made reasonable efforts to**  
 25 **obtain parental consent to interview the child;**  
 26 **the court shall specify in the order the efforts the department made**  
 27 **to obtain parental consent and shall grant the motion to interview**  
 28 **the child, either with or without the parent, guardian, or custodian**  
 29 **being present.**  
 30 SECTION 16. IC 31-33-18-1.5, AS AMENDED BY  
 31 P.L.182-2009(ss), SECTION 379, IS AMENDED TO READ AS  
 32 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1.5. (a) This  
 33 section applies to records held by:  
 34 ~~(1) the division of family resources;~~  
 35 ~~(2) (1) a county office;~~  
 36 ~~(3) (2) the department;~~  
 37 ~~(4) (3) a local child fatality review team established under~~  
 38 ~~IC 31-33-24;~~  
 39 ~~(5) (4) the statewide child fatality review committee established~~  
 40 ~~under IC 31-33-25; or~~  
 41 ~~(6) (5) the department of child services ombudsman established~~  
 42 ~~by IC 4-13-19-3;~~

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1 regarding a child whose death or near fatality may have been the result  
2 of abuse, abandonment, or neglect.

3 (b) For purposes of subsection (a), a child's death or near fatality  
4 may have been the result of abuse, abandonment, or neglect if:

5 (1) an entity described in subsection (a) determines that the child's  
6 death or near fatality is the result of abuse, abandonment, or  
7 neglect; or

8 (2) a prosecuting attorney files:

9 (A) an indictment or information; or

10 (B) a complaint alleging the commission of a delinquent act;  
11 that, if proven, would cause a reasonable person to believe that  
12 the child's death or near fatality may have been the result of  
13 abuse, abandonment, or neglect.

14 Upon the request of any person, or upon its own motion, the court  
15 exercising juvenile jurisdiction in the county in which the child's death  
16 or near fatality occurred shall determine whether the allegations  
17 contained in the indictment, information, or complaint described in  
18 subdivision (2), if proven, would cause a reasonable person to believe  
19 that the child's death or near fatality may have been the result of abuse,  
20 abandonment, or neglect.

21 (c) **If the juvenile court finds that the conditions of subsection**  
22 **(b)(2) are met, the court shall make written findings and provide**  
23 **a copy of the findings and the indictment, information, or**  
24 **complaint to the department.**

25 (c) (d) As used in this section:

26 (1) "case" means:

27 (A) any intake report generated by the department;

28 (B) any investigation or assessment conducted by the  
29 department; or

30 (C) ongoing involvement between the department and a  
31 child or family that is the result of:

32 (i) a program of informal adjustment;

33 (ii) a child in need of services action; or

34 (iii) a service referral agreement;

35 that has not been expunged as required by another law or  
36 by a court at the time and date when the department is  
37 notified of a fatality or near fatality;

38 (2) "contact" means in person communication with a family  
39 case manager in a case in which:

40 (A) the child who is the victim of a fatality or near fatality  
41 is alleged to be a victim; or

42 (B) the perpetrator of the fatality or near fatality is alleged

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- 1                   **to be the perpetrator;**  
 2           ~~(+)~~**(3)** "identifying information" means information that identifies  
 3           an individual, including an individual's:  
 4           (A) name, address, date of birth, occupation, place of  
 5           employment, and telephone number;  
 6           (B) employer identification number, mother's maiden name,  
 7           Social Security number, or any identification number issued by  
 8           a governmental entity;  
 9           (C) unique biometric data, including the individual's  
 10          fingerprint, voice print, or retina or iris image;  
 11          (D) unique electronic identification number, address, or  
 12          routing code;  
 13          (E) telecommunication identifying information; or  
 14          (F) telecommunication access device, including a card, a plate,  
 15          a code, an account number, a personal identification number,  
 16          an electronic serial number, a mobile identification number, or  
 17          another telecommunications service or device or means of  
 18          account access; and  
 19          ~~(2)~~ **(4)** "near fatality" has the meaning set forth in 42 U.S.C.  
 20          5106a.  
 21          ~~(d)~~ **(e)** Unless information in a record is otherwise confidential  
 22          under state or federal law, a record described in subsection (a) that has  
 23          been redacted in accordance with this section is not confidential and  
 24          may be disclosed to any person who requests the record. The person  
 25          requesting the record may be required to pay the reasonable expenses  
 26          of copying the record.  
 27          ~~(e)~~ **(f)** When a person requests a record described in subsection (a),  
 28          the entity having control of the record shall immediately transmit a  
 29          copy of the record to the court exercising juvenile jurisdiction in the  
 30          county in which the death or near fatality of the child occurred.  
 31          However, if the court requests that the entity having control of a record  
 32          transmit the original record, the entity shall transmit the original record.  
 33          ~~(f)~~ **(g)** Upon receipt of the record described in subsection (a), the  
 34          court shall, within thirty (30) days, redact the record to exclude:  
 35          (1) identifying information described in subsection ~~(c)~~~~(1)~~~~(B)~~  
 36          **(d)****(3)****(B)** through ~~(c)~~~~(1)~~~~(F)~~ **(d)****(3)****(F)** of a person; and  
 37          (2) all identifying information of a child less than eighteen (18)  
 38          years of age.  
 39          ~~(g)~~ **(h)** The court shall disclose the record redacted in accordance  
 40          with subsection ~~(f)~~ **(g)** to any person who requests the record, if the  
 41          person has paid:  
 42          (1) to the entity having control of the record, the reasonable

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1 expenses of copying under IC 5-14-3-8; and  
 2 (2) to the court, the reasonable expenses of copying the record.  
 3 ~~(h)~~ **(i)** The data and information in a record disclosed under this  
 4 section must include the following:  
 5 (1) A summary of the report of abuse or neglect and a factual  
 6 description of the contents of the report.  
 7 (2) The date of birth and gender of the child.  
 8 (3) The cause of the fatality or near fatality, if the cause has been  
 9 determined.  
 10 (4) Whether the department ~~or the office of the secretary of family~~  
 11 ~~and social services~~ had any contact with the child or ~~a member of~~  
 12 ~~the child's family or household~~ **the perpetrator** before the fatality  
 13 or near fatality, and, if the department ~~or the office of the~~  
 14 ~~secretary of family and social services~~ had contact, the following:  
 15 (A) The frequency of the contact or communication with the  
 16 child or ~~a member of the child's family or household~~ **the**  
 17 **perpetrator** before the fatality or near fatality and the date on  
 18 which the last contact or communication occurred before the  
 19 fatality or near fatality.  
 20 (B) A summary of the status of the child's case at the time of  
 21 the fatality or near fatality, including:  
 22 (i) whether the child's case was closed by the department ~~or~~  
 23 ~~the office of the secretary of family and social services~~  
 24 before the fatality or near fatality; and  
 25 (ii) if the child's case was closed as described under item (i),  
 26 the **date of closure and the** reasons that the case was  
 27 closed.  
 28 ~~(h)~~ **(j)** The court's determination under subsection ~~(h)~~ **(g)** that certain  
 29 identifying information or other information is not relevant to  
 30 establishing the facts and circumstances leading to the death or near  
 31 fatality of a child is not admissible in a criminal proceeding or civil  
 32 action.  
 33 SECTION 17. IC 31-34-21-7.7 IS AMENDED TO READ AS  
 34 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 7.7. **(a)** If the juvenile  
 35 court approves a permanency plan under section 7 of this chapter that  
 36 provides for the appointment of a guardian for a child, the juvenile  
 37 court may appoint a guardian of the person and administer a  
 38 guardianship for the child under IC 29-3.  
 39 **(b)** If a guardianship of the person proceeding for the child is  
 40 pending in a probate court, the probate court shall transfer the  
 41 proceeding to the juvenile court.  
 42 **(c) In creating a guardianship of a minor, a probate or juvenile**

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1 court may include in an order the requirements set forth in  
2 IC 29-3-8-9.

3 (d) If the juvenile court closes the child in need of services case  
4 after creating a guardianship, the juvenile court order survives the  
5 closure of the child in need of services case.

6 (e) If the juvenile court closes the child in need of services case  
7 after creating a guardianship, the probate court may assume or  
8 reassume jurisdiction of the guardianship and take further action  
9 as necessary.

10 SECTION 18. IC 31-35-5-4, AS AMENDED BY P.L.145-2006,  
11 SECTION 334, IS AMENDED TO READ AS FOLLOWS  
12 [EFFECTIVE JULY 1, 2010]: Sec. 4. The court may not make an order  
13 under section 2 or 3 of this chapter unless:

14 (1) the testimony to be taken is the testimony of a child who at the  
15 time of the trial is:

16 (A) less than fourteen (14) years of age; or

17 (B) at least fourteen (14) years of age but less than eighteen  
18 (18) years of age and has a disability attributable to an  
19 impairment of general intellectual functioning or adaptive  
20 behavior that:

21 (i) is likely to continue indefinitely;

22 (ii) constitutes a substantial impairment of the child's ability  
23 to function normally in society; and

24 (iii) reflects the child's need for a combination and sequence  
25 of special, interdisciplinary, or generic care, treatment, or  
26 other services that are of lifelong or extended duration and  
27 are individually planned and coordinated; and

28 (C) found by the court to be a child who should be permitted  
29 to testify outside the courtroom because:

30 (i) a psychiatrist, physician, or psychologist has certified that  
31 the child's testifying in the courtroom creates a substantial  
32 likelihood of emotional or mental harm to the child;

33 (ii) a physician has certified that the child cannot be present  
34 in the courtroom for medical reasons; or

35 (iii) evidence has been introduced concerning the effect of  
36 the child's testifying in the courtroom and the court finds  
37 that it is more likely than not that the child's testifying in the  
38 courtroom creates a substantial likelihood of emotional or  
39 mental harm to the child;

40 (2) the prosecuting attorney or the attorney for the department has  
41 informed the parties and their attorneys by written notice of the  
42 intention to have the child testify outside the courtroom; and

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1 (3) the prosecuting attorney or the attorney for the department  
2 informed the parties and their attorneys under subdivision (2) at  
3 least ~~twenty (20)~~ **seven (7)** days before the proceedings to give  
4 the parties and their attorneys a fair opportunity to prepare a  
5 response before the proceedings to the motion of the prosecuting  
6 attorney or the motion of the attorney for the department to permit  
7 the child to testify outside the courtroom.

8 SECTION 19. IC 31-40-1-2, AS AMENDED BY P.L.182-2009(ss),  
9 SECTION 387, IS AMENDED TO READ AS FOLLOWS  
10 [EFFECTIVE JULY 1, 2010]: Sec. 2. (a) Except as otherwise provided  
11 in this section and subject to:

12 (1) this chapter; and  
13 (2) any other provisions of IC 31-34, IC 31-37, or other applicable  
14 law relating to the particular program, activity, or service for  
15 which payment is made by or through the department;  
16 the department shall pay the cost of any child services provided by or  
17 through the department for any child or the child's parent, guardian, or  
18 custodian.

19 (b) The department shall pay the cost of returning a child under  
20 IC 31-37-23.

21 (c) Except as provided under section 2.5 of this chapter, the  
22 department is not responsible for payment of any costs of secure  
23 detention.

24 (d) The department is not responsible for payment of any costs or  
25 expenses for child services for a child if:

- 26 (1) the juvenile court has not entered the required findings and  
27 conclusions in accordance with IC 31-34-5-3, IC 31-34-20-1,  
28 IC 31-37-6-6, IC 31-37-19-1, or IC 31-37-19-6 (whichever is  
29 applicable); and
- 30 (2) the department has determined that the child otherwise meets  
31 the eligibility requirements for assistance under Title IV-E of the  
32 federal Social Security Act (42 U.S.C. 670 et seq.).

33 (e) In all cases under this title, if the juvenile court orders services,  
34 programs, or placements that:

- 35 (1) are not eligible for federal assistance under either Title IV-B  
36 of the federal Social Security Act (42 U.S.C. 620 et seq.) or Title  
37 IV-E of the federal Social Security Act (42 U.S.C. 670 et seq.);  
38 and
- 39 (2) have not been recommended or approved by the department;  
40 the department is not responsible for payment of the costs of those  
41 services, programs, or placements.

42 (f) The department is not responsible for payment of any costs or

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1 expenses for housing or services provided to or for the benefit of a  
2 child placed by a juvenile court in a home or facility located outside  
3 Indiana if the placement: ~~is not recommended or approved by the~~  
4 ~~director of the department or the director's designee.~~

5 **(1) does not comply with the conditions stated in**  
6 **IC 31-34-20-1(b) or IC 31-37-19-3(b); and**

7 **(2) is more expensive than similar services that can be**  
8 **provided in Indiana.**

9 (g) The department is not responsible for payment of any costs or  
10 expenses of child services for a delinquent child under a dispositional  
11 decree entered under IC 31-37-19, if the probation officer who  
12 prepared the predispositional report did not submit to the department  
13 the information relating to determination of eligibility of the child for  
14 assistance under Title IV-E of the Social Security Act (42 U.S.C. 670  
15 et seq.), as required by IC 31-37-17-1(a)(3).

16 (h) If:

17 (1) the department is not responsible for payment of costs or  
18 expenses of services, programs, or placements ordered by a court  
19 for a child or the child's parent, guardian, or custodian, as  
20 provided in this section; and

21 (2) another source of payment for those costs or expenses is not  
22 specified in this section or other applicable law;

23 the county in which the child in need of services case or delinquency  
24 case was filed is responsible for payment of those costs and expenses.

25 **SECTION 20. An emergency is declared for this act.**

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## COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 149, 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 6, line 24, delete "If the incapacitated person is less than eighteen (18) years".

Page 6, line 25, delete "of age, a" and insert "A".

Page 6, line 26, after "regarding" insert "**the minor for whom a guardianship is sought,**".

Page 6, line 27, delete "the incapacitated person,".

Page 7, line 40, delete "If" and insert "**Except as provided in IC 29-3-12, if**".

Page 8, line 4, delete "If" and insert "**If:**

(1)".

Page 8, line 6, delete "proven," and insert "**proven; and**

**(2) the child:**

**(A) was the subject of a petition alleging the child to be a child in need of services; or**

**(B) is in a program of informal adjustment;"**.

Page 8, line 6, beginning with "the" begin a new line blocked left.

Page 8, line 23, delete "any" and insert "a".

Page 8, line 23, delete "section," and insert "**section and if the child was the subject of a petition alleging the child to be a child in need of services or is in a program of informal adjustment,**".

Page 13, between lines 18 and 19, begin a new paragraph and insert:

**"(d) If no paternity action was pending when the juvenile court determined paternity, an appropriate court in that county shall accept the case and conduct additional proceedings if necessary."**

Page 13, between lines 27 and 28, begin a new paragraph and insert:

"SECTION 12. IC 31-33-7-8, AS AMENDED BY P.L.131-2009, SECTION 42, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 8. (a) This section applies if the department receives a report of suspected child abuse or neglect from:

- (1) a hospital;
- (2) a community mental health center;
- (3) a managed care provider (as defined in IC 12-7-2-127(b));
- (4) a referring physician;
- (5) a dentist;
- (6) a licensed psychologist; or
- (7) a school;



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- (8) a child caring institution licensed under IC 31-27;**
- (9) a group home licensed under IC 31-27 or IC 12-28-4;**
- (10) a private secure facility; or**
- (11) a child placing agency.**

(b) Not later than thirty (30) days after the date the department receives a report of suspected child abuse or neglect from a person described in subsection (a), the department shall send a report to:

- (1) the administrator of the hospital;
- (2) the community mental health center;
- (3) the managed care provider;
- (4) the referring physician;
- (5) the dentist; or
- (6) the principal of the school;
- (7) the licensed psychologist;**
- (8) the child caring institution;**
- (9) the group home;**
- (10) the private secure facility; or**
- (11) the child placing agency.**

The report must contain the items listed in subsection (e) that are known at the time the report is sent.

(c) Not later than ninety (90) days after the date the department receives a report of suspected child abuse or neglect, the department shall send a report that contains any additional items listed in subsection (e) that were not covered in the prior report if available.

(d) The administrator, director, referring physician, dentist, licensed psychologist, or principal may appoint a designee to receive the report.

(e) A report made by the department under this section must contain the following information:

- (1) The name of the alleged victim of child abuse or neglect.
- (2) The name of the alleged perpetrator and the alleged perpetrator's relationship to the alleged victim.
- (3) Whether the case is closed.
- (4) Whether information concerning the case has been expunged.
- (5) The name of any agency to which the alleged victim has been referred.
- (6) Whether the department has made an assessment of the case and has not taken any further action.
- (7) Whether a substantiated case of child abuse or neglect was informally adjusted.
- (8) Whether the alleged victim was referred to the juvenile court as a child in need of services.
- (9) Whether the alleged victim was returned to the victim's home.

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- (10) Whether the alleged victim was placed in residential care outside the victim's home.
  - (11) Whether a wardship was established for the alleged victim.
  - (12) Whether criminal action is pending or has been brought against the alleged perpetrator.
  - (13) A brief description of any casework plan that has been developed by the department.
  - (14) The caseworker's name and telephone number.
  - (15) The date the report is prepared.
  - (16) Other information that the department may prescribe.
- (f) A report made under this section:
- (1) is confidential; and
  - (2) may be made available only to:
    - (A) the agencies named in this section; and
    - (B) the persons and agencies listed in IC 31-33-18-2."

Page 14, line 19, after "may" insert ", after giving notice to the parent, guardian, or custodian,".

Page 14, line 21, delete "grants a motion under this subsection," and insert "**finds that the department has made reasonable efforts to obtain parental consent to interview the child,**".

Page 14, line 23, delete "consent." and insert "**consent and shall grant the motion to interview the child, either with or without the parent, guardian, or custodian being present.**".

Page 14, line 26, delete "JULY 1, 2010]:" and insert "UPON PASSAGE]:".

Page 14, line 40, after "if" insert ":".

Page 14, line 41, reset in roman "(1)".

Page 15, line 1, delete "." and insert ";".

Page 15, line 1, reset in roman "or".

Page 15, reset in roman lines 2 through 14.

Page 15, between lines 14 and 15, begin a new paragraph and insert: "**(c) If the juvenile court finds that the conditions of subsection (b)(2)(B) are met, the court shall make written findings and provide a copy of the findings and the indictment, information, or complaint to the department.**".

Page 15, line 15, strike "(c)" and insert "(d)".

Page 15, line 24, delete "agreement" and insert "**agreement;**".

Page 15, line 24, beginning with "that" begin a new line double block indented.

Page 15, line 25, after "law" insert "**or**".

Page 15, line 30, delete "a child residing in a home is alleged to be a victim; and" and insert "**the child who is the victim of a fatality or**".

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**near fatality is alleged to be a victim; or".**

Page 15, line 31, delete "an adult residing in the home" and insert **"the perpetrator of the fatality or near fatality"**.

Page 16, line 10, strike "(d)" and insert **"(e)"**.

Page 16, line 16, strike "(e)" and insert **"(f)"**.

Page 16, line 22, strike "(f)" and insert **"(g)"**.

Page 16, line 28, strike "(g)" and insert **"(h)"**.

Page 16, line 29, strike "(f)" and insert **"(g)"**.

Page 16, line 34, strike "(h)" and insert **"(i)"**.

Page 16, line 42, strike "a member of".

Page 17, line 1, strike "the child's family or household" and insert **"the perpetrator"**.

Page 17, line 5, strike "a member of the child's".

Page 17, line 5, strike "household" and insert **"the perpetrator"**.

Page 17, line 16, strike "(i)" and insert **"(j)"**.

Page 17, line 16, strike "(f)" and insert **"(g)"**.

Page 17, after line 32, begin a new paragraph and insert:

"SECTION 16. IC 31-35-5-4, AS AMENDED BY P.L.145-2006, SECTION 334, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4. The court may not make an order under section 2 or 3 of this chapter unless:

(1) the testimony to be taken is the testimony of a child who at the time of the trial is:

(A) less than fourteen (14) years of age; or

(B) at least fourteen (14) years of age but less than eighteen (18) years of age and has a disability attributable to an impairment of general intellectual functioning or adaptive behavior that:

(i) is likely to continue indefinitely;

(ii) constitutes a substantial impairment of the child's ability to function normally in society; and

(iii) reflects the child's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services that are of lifelong or extended duration and are individually planned and coordinated; and

(C) found by the court to be a child who should be permitted to testify outside the courtroom because:

(i) a psychiatrist, physician, or psychologist has certified that the child's testifying in the courtroom creates a substantial likelihood of emotional or mental harm to the child;

(ii) a physician has certified that the child cannot be present in the courtroom for medical reasons; or

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(iii) evidence has been introduced concerning the effect of the child's testifying in the courtroom and the court finds that it is more likely than not that the child's testifying in the courtroom creates a substantial likelihood of emotional or mental harm to the child;

(2) the prosecuting attorney or the attorney for the department has informed the parties and their attorneys by written notice of the intention to have the child testify outside the courtroom; and

(3) the prosecuting attorney or the attorney for the department informed the parties and their attorneys under subdivision (2) at least ~~twenty (20)~~ **seven (7)** days before the proceedings to give the parties and their attorneys a fair opportunity to prepare a response before the proceedings to the motion of the prosecuting attorney or the motion of the attorney for the department to permit the child to testify outside the courtroom.

**SECTION 17. An emergency is declared for this act."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 149 as introduced.)

BRAY, Chairperson

Committee Vote: Yeas 8, Nays 3.

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SENATE MOTION

Madam President: I move that Senate Bill 149 be amended to read as follows:

Page 12, line 38, delete "or" and insert "**child support, or visitation, the juvenile court may terminate the child in need of services proceeding or the juvenile delinquency proceeding.**

**(d) If:**

**(1) child custody, child support, or visitation is modified; and**

**(2) a child in need of services proceeding or a juvenile delinquency proceeding is terminated;**

**under subsection (c), the court having concurrent original jurisdiction under subsection (a) shall assume or reassume primary jurisdiction of the case to address all other issues.**

**(e) An order modifying child custody, child support, or visitation issued under this section survives the termination of the child in need of services proceeding or the juvenile delinquency**

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proceeding."

Page 12, delete line 39 through 42.

Page 13, line 21, delete "section:" and insert "**section, the juvenile court may terminate the child in need of services proceeding or the juvenile delinquency proceeding.**

(d) If:

(1) paternity is created or modified; and

(2) a child in need of services proceeding or a juvenile delinquency proceeding is terminated;

under subsection (c), the court having concurrent original jurisdiction under subsection (a) shall assume or reassume primary jurisdiction of the case to address all other issues.

(e) An order creating or modifying paternity under this section survives the termination of the child in need of services proceeding or the juvenile delinquency proceeding."

Page 13, delete lines 22 through 29.

Page 19, between lines 37 and 38, begin a new paragraph and insert:

"(d) If the juvenile court closes the child in need of services case after creating a guardianship, the juvenile court order survives the closure of the child in need of services case.

(e) If the juvenile court closes the child in need of services case after creating a guardianship, the probate court may assume or reassume jurisdiction of the guardianship and take further action as necessary."

(Reference is to SB 149 as printed January 29, 2010.)

LAWSON C

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SENATE MOTION

Madam President: I move that Senate Bill 149 be amended to read as follows:

Page 8, line 3, delete "clear and convincing" and insert "**a preponderance of the**".

Page 16, line 14, delete "The court may, after giving notice to the".

Page 16, delete lines 15 through 16.

Page 16, line 17, delete "the interview."

Page 16, line 17, delete "court" and insert "**court:**

(1) receives information that the parent, guardian, or custodian has been informed of the hearing; and

(2)".

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Page 16, line 18, delete "child," and insert "**child**";  
Page 16, line 19, beginning with "the court" begin a new line  
blocked left.

(Reference is to SB 149 as printed January 29, 2010.)

LAWSON C

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred Senate Bill 149, 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 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 4-21.5-2-6, AS AMENDED BY P.L.219-2007, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6. This article does not apply to the formulation, issuance, or administrative review (but does apply to the judicial review and civil enforcement) of any of the following:

(1) Except as provided in IC 12-17.2-4-18.7 and IC 12-17.2-5-18.7, determinations by the division of family resources. and the department of child services.

**(2) Determinations by the department of child services:**

**(A) except as provided in IC 12-17.2-4-18.7 and IC 12-17.2-5-18.7; and**

**(B) except for determinations by the department of child services:**

**(i) concerning providers; and**

**(ii) setting rates for reimbursement of licensed child caring institutions, licensed group homes, licensed foster family homes, and licensed placing agencies.**

~~(2)~~ **(3) Determinations by the alcohol and tobacco commission.**

~~(3)~~ **(4) Determinations by the office of Medicaid policy and planning concerning recipients and applicants of Medicaid. However, this article does apply to determinations by the office of Medicaid policy and planning concerning providers."**

Page 7, line 26, after "department" insert "**of child services**".

Page 7, line 30, delete "the alleged incapacitated person or" and insert "**a**".

Page 8, line 16, after "department" insert "**of child services**".

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Page 8, line 33, delete "department;" and insert "**department of child services;**".

Page 8, line 34, delete "department, allow the department" and insert "**department of child services, allow the department of child services**".

Page 9, between lines 13 and 14, begin a new paragraph and insert:  
"SECTION 8. IC 31-25-2-18, AS ADDED BY P.L.145-2006, SECTION 271, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 18. (a) The department may adopt rules under IC 4-22-2 necessary to carry out the department's or bureau's duties under this article.

**(b) The department shall adopt rules under IC 4-22-2 regarding the determination of rates for reimbursement of licensed child caring institutions, licensed group homes, licensed foster family homes, and licensed placing agencies."**

Page 13, line 6, delete "other issues." and insert "**issues, including whether the juvenile court order regarding child custody, child support, or visitation should be modified.**".

Page 13, line 10, delete "proceeding." and insert "**proceeding, until the court having concurrent or original jurisdiction assumes primary jurisdiction and modifies the order.**".

Page 17, line 29, delete "(b)(2)(B)" and insert **(b)(2)**".

Page 19, line 1, delete "(c)(3)(B) through (c)(1)(F) (c)(3)(F)" and insert "**(d)(3)(B) through ~~(c)(1)(F)~~ (d)(3)(F)**".

Page 21, between lines 14 and 15, begin a new paragraph and insert:  
"SECTION 17. IC 31-40-1-2, AS AMENDED BY P.L.182-2009(ss), SECTION 387, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. (a) Except as otherwise provided in this section and subject to:

(1) this chapter; and

(2) any other provisions of IC 31-34, IC 31-37, or other applicable law relating to the particular program, activity, or service for which payment is made by or through the department;

the department shall pay the cost of any child services provided by or through the department for any child or the child's parent, guardian, or custodian.

(b) The department shall pay the cost of returning a child under IC 31-37-23.

(c) Except as provided under section 2.5 of this chapter, the department is not responsible for payment of any costs of secure detention.

(d) The department is not responsible for payment of any costs or

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expenses for child services for a child if:

- (1) the juvenile court has not entered the required findings and conclusions in accordance with IC 31-34-5-3, IC 31-34-20-1, IC 31-37-6-6, IC 31-37-19-1, or IC 31-37-19-6 (whichever is applicable); and
- (2) the department has determined that the child otherwise meets the eligibility requirements for assistance under Title IV-E of the federal Social Security Act (42 U.S.C. 670 et seq.).

(e) In all cases under this title, if the juvenile court orders services, programs, or placements that:

- (1) are not eligible for federal assistance under either Title IV-B of the federal Social Security Act (42 U.S.C. 620 et seq.) or Title IV-E of the federal Social Security Act (42 U.S.C. 670 et seq.); and
- (2) have not been recommended or approved by the department; the department is not responsible for payment of the costs of those services, programs, or placements.

(f) The department is not responsible for payment of any costs or expenses for housing or services provided to or for the benefit of a child placed by a juvenile court in a home or facility located outside Indiana if the placement: ~~is not recommended or approved by the director of the department or the director's designee.~~

- (1) does not comply with the conditions stated in IC 31-34-20-1(b) or IC 31-37-19-3(b); and**
- (2) is more expensive than similar services that can be provided in Indiana.**

(g) The department is not responsible for payment of any costs or expenses of child services for a delinquent child under a dispositional decree entered under IC 31-37-19, if the probation officer who prepared the predispositional report did not submit to the department the information relating to determination of eligibility of the child for assistance under Title IV-E of the Social Security Act (42 U.S.C. 670 et seq.), as required by IC 31-37-17-1(a)(3).

(h) If:

- (1) the department is not responsible for payment of costs or expenses of services, programs, or placements ordered by a court for a child or the child's parent, guardian, or custodian, as provided in this section; and
- (2) another source of payment for those costs or expenses is not specified in this section or other applicable law;

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the county in which the child in need of services case or delinquency case was filed is responsible for payment of those costs and expenses.".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 149 as reprinted February 2, 2010.)

LAWSON L, Chair

Committee Vote: yeas 12, nays 0.

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