

SENATE BILL No. 190

DIGEST OF INTRODUCED BILL

Citations Affected: IC 31-9-2-0.9; IC 31-17-6-1; IC 31-35-3.5.

Synopsis: Termination of parent-child relationship. Allows a parent who is the victim of an act of rape from which a child was conceived to file a petition to terminate the child's parent-child relationship with the alleged perpetrator. Requires a court to terminate the parent-child relationship if the court finds: (1) by clear and convincing evidence that the alleged perpetrator committed an act of rape against the parent who has filed the petition to terminate the parent-child relationship and that the child was conceived as a result of the act of rape; and (2) terminating the parent-child relationship would be in the best interest of the child.

Effective: July 1, 2012.

Charbonneau

January 4, 2012, read first time and referred to Committee on Judiciary.

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Second Regular Session 117th General Assembly (2012)

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 2011 Regular Session of the General Assembly.

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SENATE BILL No. 190



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 31-9-2-0.9 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2012]: **Sec. 0.9. "Act of rape", for purposes of IC 31-35-3.5,**
4 **means an act described under:**

- 5 (1) **IC 35-42-4-1; or**
- 6 (2) **IC 35-42-4-3(a).**

7 SECTION 2. IC 31-17-6-1, AS AMENDED BY P.L.133-2008,
8 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
9 JULY 1, 2012]: Sec. 1. A court, in a proceeding under IC 31-17-2,
10 IC 31-17-4, this chapter, IC 31-17-7, ~~or~~ IC 31-28-5, **or IC 31-35-3.5,**
11 may appoint a guardian ad litem, a court appointed special advocate,
12 or both, for a child at any time.

13 SECTION 3. IC 31-35-3.5 IS ADDED TO THE INDIANA CODE
14 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
15 JULY 1, 2012]:

16 **Chapter 3.5. Termination of Parent-Child Relationship of an**
17 **Individual Who Committed an Act of Rape**



1 **Sec. 1. Proceedings under this chapter are governed by the**
 2 **procedures prescribed by:**

- 3 (1) IC 31-32-1, IC 31-32-4 through IC 31-32-10, and
 4 IC 31-32-12 through IC 31-32-15;
 5 (2) IC 31-34; and
 6 (3) IC 31-37;

7 **but are distinct from proceedings under IC 31-34 and IC 31-37.**

8 **Sec. 2. The probate court has concurrent original jurisdiction**
 9 **with the juvenile court in proceedings on a petition to terminate the**
 10 **parent-child relationship under this chapter.**

11 **Sec. 3. If a child was conceived as a result of an act of rape, the**
 12 **parent who is the victim of the act of rape may file a petition with**
 13 **the juvenile or probate court to terminate the child's parent-child**
 14 **relationship with the alleged perpetrator of the act of rape.**

15 **Sec. 4. The verified petition filed under section 3 of this chapter**
 16 **must:**

- 17 (1) be entitled "In the Matter of the Termination of the
 18 Parent-Child Relationship of _____, a child, and
 19 _____, the parent"; and

20 (2) allege:

21 (A) that the alleged perpetrator committed an act of rape
 22 against the parent who has filed the petition to terminate
 23 the parent-child relationship;

24 (B) that the child was conceived as a result of the act of
 25 rape described under clause (A); and

26 (C) that termination of the parent-child relationship of the
 27 alleged perpetrator with the child is in the best interests of
 28 the child.

29 **Sec. 5. A showing by clear and convincing evidence that:**

- 30 (1) the alleged perpetrator committed an act of rape against
 31 a parent described in section 4(2)(A) of this chapter; and

32 (2) the child was conceived as a result of the act of rape;

33 **is prima facie evidence that there is a reasonable probability that**
 34 **continuation of the parent-child relationship with the alleged**
 35 **perpetrator is not in the best interests of the child.**

36 **Sec. 6. (a) The court shall terminate the parent-child**
 37 **relationship if the court finds:**

38 (1) by clear and convincing evidence, that the allegations in a
 39 petition described in section 4(2)(A) and 4(2)(B) of this
 40 chapter are true; and

41 (2) that termination of the parent-child relationship is in the
 42 best interests of the child.

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1 **(b) If the court does not find:**
2 **(1) by clear and convincing evidence, that the allegations in a**
3 **petition described in section 4(2)(A) and 4(2)(B) of this**
4 **chapter are true; and**
5 **(2) that termination of the parent-child relationship is in the**
6 **best interests of the child;**
7 **the court shall dismiss the petition.**
8 **Sec. 7. The court may appoint:**
9 **(1) a guardian ad litem;**
10 **(2) a court appointed special advocate; or**
11 **(3) both a guardian ad litem and a court appointed special**
12 **advocate;**
13 **for a child in a proceeding under this chapter as provided under**
14 **IC 31-17-6-1.**

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