HOUSE BILL No. 1229

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-21.5-2-6; IC 31-19.

Synopsis: Adoption subsidies for children in foster care. Requires payment by the department of child services of the costs of certain health related adoption subsidies for a child in foster care. Makes a determination by the department of child services with respect to subsidies subject to administrative review.

Effective: July 1, 2012.

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January 9, 2012, read first time and referred to Committee on Family, Children and Human Affairs.

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Introduced

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.

C o p y

HOUSE BILL No. 1229

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:

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, 2012]: 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, **and other than a determination made under IC 31-19-26.7-3,** determinations by the division of family resources and the department of child services.

(2) Determinations by the alcohol and tobacco commission.

(3) 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 31-19-26.5-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 2.5. This chapter does not apply**

to the adoption of a child in foster care, unless the child in foster care is a child with special needs.

SECTION 3. IC 31-19-26.7 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]:

Chapter 26.7. Adoption Subsidies for Children in Foster Care

Sec. 1. (a) This chapter applies to the adoption of a child who is in foster care.

(b) This chapter does not apply to a child with special needs (as defined in IC 31-19-26.5-2).

Sec. 2. (a) If a petition for adoption is filed seeking a subsidy and the payment of a subsidy is ordered by the court, or a subsidy is required under section 4(a) of this chapter, the order or adoption decree must contain the following information:

(1) Whether a subsidy:

(A) is to be paid under section 3 of this chapter;

(B) is required under section 4(a) of this chapter; or

(C) satisfies both clauses (A) and (B).

(2) The amount of a subsidy to be paid under section 3 of this chapter.

(3) If a subsidy is required under section 4(a) of this chapter, the condition or cause covered by the subsidy.

(4) Any condition for the continued payment of a subsidy other than a requirement set forth in this chapter.

(b) Except as provided in section 4 of this chapter, the department:

(1) may be ordered to pay the subsidy under section 3 of this chapter; and

(2) shall pay a subsidy required under section 4 of this chapter;

to the adoptive parents or designated payees to the extent that money is available.

Sec. 3. The court may order the department to pay a subsidy for the support of the adoptive child in an amount not to exceed the monthly cost of care of the child in a foster family home if federal payments for adoption assistance under 42 U.S.C. 673 are not equal to the total monthly cost of care of the child in a foster family home.

Sec. 4. (a) The department shall pay a subsidy for the medical, surgical, hospital, and related expenses for an adoptive child due to the physical, mental, emotional, or medical condition of the child if:

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(1) the condition or the cause of the condition existed before the petition for adoption was filed;

(2) the expenses related to treatment of the condition are paid by the state or a local unit of government before the adoption; and

(3) payments from insurance or public money to treat the condition or cause of the condition are not available to the adoptive child or adoptive parents.

(b) The department shall pay a subsidy for the medical, surgical, hospital, and related expenses for an adoptive child due to a physical, a mental, an emotional, or a medical condition of the child of which evidence appears after the child is adopted if:

(1) the condition or the cause of the condition existed before the petition for adoption was filed, as determined by the child's treating physician; and

(2) payments from insurance or public money to treat the condition or cause of the condition are not available to the adoptive child or adoptive parents.

(c) The amount of the subsidy required under subsection (a) or (b) must be equal to the amount that would be paid for the medical, surgical, hospital, and related expenses under the Medicaid program under IC 12-15.

(d) A person aggrieved by an agency action under this section may petition for administrative review under IC 4-21.5-3-7.

Sec. 5. (a) Subject to subsection (b), the subsidies under sections 3 and 4 of this chapter continue:

(1) until:

(A) the child becomes eighteen (18) years of age;

(B) the child becomes emancipated;

(C) the child dies;

(D) the child's adoption is terminated; or

(E) further order of court;

whichever occurs first; and

(2) although the adoptive parents leave the jurisdiction of the court.

(b) The court may order a subsidy granted or required under this chapter to continue until the adoptive child becomes twenty-one (21) years of age. The court may issue an order under this subsection if:

(1) the adoptive child files a petition for the order; and

(2) the court determines that the child is enrolled in:

(A) a secondary school;

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(B) a college or university; or

(C) a course of vocational training leading to gainful employment.

Sec. 6. (a) As a condition for continuation of the subsidies, the court shall require the adoptive parents to file a sworn report with the court, with an additional copy to be filed with the department, at least one (1) time each year, stating:

(1) the location of the parents; and

(2) the location and condition of the child.

(b) The department may request confirmation of the veracity of the report required by subsection (a) from any governmental agency that provides services in the area of Indiana in which the child resides. On the basis of the report or information received by the court indicating changed conditions, the court may:

(1) continue;

(2) increase;

(3) reduce; or

(4) discontinue;

the subsidy by order of the court. However, a court may not reduce or discontinue a subsidy under this section if the subsidy is required under section 4 of this chapter.

Sec. 7. The subsidies under sections 3 and 4 of this chapter do not affect:

(1) the legal status of the child; or

(2) the rights and responsibilities of the adoptive parents provided by law.

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