



January 27, 2012

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## SENATE BILL No. 190

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DIGEST OF SB 190 (Updated January 25, 2012 1:52 pm - DI 106)

**Citations Affected:** IC 31-9; IC 31-13.

**Synopsis:** Denial of parenting rights to rapists. Prohibits a person who caused a child to be conceived by rape from obtaining custody, parenting time, or contact with the child if a court finds by clear and convincing evidence that the person perpetrated the rape. Provides an exception if the biological parents of the child were married at the time the child was conceived. Permits the court to order a party to pay the prevailing party costs and attorney's fees in an action to deny parenting rights, and specifies that a person who has been denied parenting rights because of rape may not be required to pay child support.

**Effective:** July 1, 2012.

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**Charbonneau, Bray, Steele,  
Randolph**

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January 4, 2012, read first time and referred to Committee on Judiciary.  
January 26, 2012, amended, reported favorably — Do Pass.

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SB 190—LS 6542/DI 110+



January 27, 2012

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 31-13-4, means**  
4 **an act described under:**  
5 (1) IC 35-42-4-1; or  
6 (2) IC 35-42-4-3(a).  
7 SECTION 2. IC 31-13-4 IS ADDED TO THE INDIANA CODE AS  
8 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY  
9 1, 2012]:  
10 **Chapter 4. Child Conceived as a Result of an Act of Rape**  
11 **Sec. 1. (a) This section does not apply if the biological parents of**  
12 **a child were married at the time the child was conceived.**  
13 **(b) If:**  
14 (1) **an individual who:**  
15 (A) **is the biological parent of a child; or**  
16 (B) **alleges to be the biological parent of a child;**  
17 **seeks custody, parenting time, or contact with the child; and**

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1           **(2) the court finds by clear and convincing evidence that:**  
2           **(A) the child was conceived as the result of an act of rape;**  
3           **and**  
4           **(B) the individual described under subdivision (1) was the**  
5           **perpetrator of the act of rape;**  
6           **the court shall deny the individual custody, parenting time, and**  
7           **contact with the child.**  
8           **(c) If a court denies an individual custody, parenting time, and**  
9           **contact with a child under this section, a court may not require the**  
10           **individual to pay child support for the child.**  
11           **Sec. 2. (a) The court may order a party to pay to the prevailing**  
12           **party a reasonable amount for:**  
13           **(1) the cost of maintaining an action under this chapter; and**  
14           **(2) attorney's fees, including amounts for legal services**  
15           **provided and costs incurred, before the commencement of the**  
16           **proceedings or after entry of judgment.**  
17           **(b) The court may order the amount under subsection (a) to be**  
18           **paid directly to the attorney of the prevailing party, who may**  
19           **enforce the order in the attorney's name.**

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## COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 190, 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 1, line 3, delete "IC 31-35-3.5," and insert "**IC 31-13-4**,".

Page 1, delete lines 7 through 17, begin a new paragraph and insert:

"SECTION 2. IC 31-13-4 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]:

**Chapter 4. Child Conceived as a Result of an Act of Rape**

**Sec. 1. (a) This section does not apply if the biological parents of a child were married at the time the child was conceived.**

**(b) If:**

**(1) an individual who:**

**(A) is the biological parent of a child; or**

**(B) alleges to be the biological parent of a child;**

**seeks custody, parenting time, or contact with the child; and**

**(2) the court finds by clear and convincing evidence that:**

**(A) the child was conceived as the result of an act of rape; and**

**(B) the individual described under subdivision (1) was the perpetrator of the act of rape;**

**the court shall deny the individual custody, parenting time, and contact with the child.**

**(c) If a court denies an individual custody, parenting time, and contact with a child under this section, a court may not require the individual to pay child support for the child.**

**Sec. 2. (a) The court may order a party to pay to the prevailing party a reasonable amount for:**

**(1) the cost of maintaining an action under this chapter; and**

**(2) attorney's fees, including amounts for legal services provided and costs incurred, before the commencement of the proceedings or after entry of judgment.**

**(b) The court may order the amount under subsection (a) to be**

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**paid directly to the attorney of the prevailing party, who may enforce the order in the attorney's name."**

Delete pages 2 through 3.

and when so amended that said bill do pass.

(Reference is to SB 190 as introduced.)

BRAY, Chairperson

Committee Vote: Yeas 8, Nays 0.

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