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.

SENATE ENROLLED ACT No. 286

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 4-13-19-4, AS ADDED BY P.L.182-2009(ss), SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 4. (a) The governor shall appoint the ombudsman. The ombudsman serves at the pleasure of the governor. An individual may not be appointed as ombudsman if the individual has been employed by the department of child services at any time during the preceding twelve (12) months. The governor shall appoint a successor ombudsman not later than thirty (30) days after a vacancy occurs in the position of the ombudsman.

(b) The office of the department of child services ombudsman:

(1) shall employ at least two (2) full time employees to assist the ombudsman with receiving, investigating, and attempting to resolve complaints described in section 5 of this chapter; and

(2) may employ technical experts and other employees to carry out the purposes of this chapter.

(c) ~~However,~~ The office of the department of child services ombudsman may not hire an individual to serve as an ombudsman if the individual has been employed by the department of child services during the preceding twelve (12) months.

~~(c)~~ **(d)** The ombudsman and any other person employed or authorized by the ombudsman:

(1) are subject to the same criminal history and background

C o p y

checks, to be performed by the department of child services, that are required for department of child services family case managers; and

(2) are subject to the same disqualification for employment criteria as department of child services family case managers.

SECTION 2. IC 4-22-2-37.1, AS AMENDED BY P.L.229-2011, SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 37.1. (a) This section applies to a rulemaking action resulting in any of the following rules:

(1) An order adopted by the commissioner of the Indiana department of transportation under IC 9-20-1-3(d) or IC 9-21-4-7(a) and designated by the commissioner as an emergency rule.

(2) An action taken by the director of the department of natural resources under IC 14-22-2-6(d) or IC 14-22-6-13.

(3) An emergency temporary standard adopted by the occupational safety standards commission under IC 22-8-1.1-16.1.

(4) An emergency rule adopted by the solid waste management board under IC 13-22-2-3 and classifying a waste as hazardous.

(5) A rule, other than a rule described in subdivision (6), adopted by the department of financial institutions under IC 24-4.5-6-107 and declared necessary to meet an emergency.

(6) A rule required under IC 24-4.5-1-106 that is adopted by the department of financial institutions and declared necessary to meet an emergency under IC 24-4.5-6-107.

(7) A rule adopted by the Indiana utility regulatory commission to address an emergency under IC 8-1-2-113.

(8) An emergency rule adopted by the state lottery commission under IC 4-30-3-9.

(9) A rule adopted under IC 16-19-3-5 or IC 16-41-2-1 that the executive board of the state department of health declares is necessary to meet an emergency.

(10) An emergency rule adopted by the Indiana finance authority under IC 8-21-12.

(11) An emergency rule adopted by the insurance commissioner under IC 27-1-23-7 or IC 27-1-12.1.

(12) An emergency rule adopted by the Indiana horse racing commission under IC 4-31-3-9.

(13) An emergency rule adopted by the air pollution control board, the solid waste management board, or the water pollution control board under IC 13-15-4-10(4) or to comply with a

C o p y

deadline required by or other date provided by federal law, provided:

(A) the variance procedures are included in the rules; and

(B) permits or licenses granted during the period the emergency rule is in effect are reviewed after the emergency rule expires.

(14) An emergency rule adopted by the Indiana election commission under IC 3-6-4.1-14.

(15) An emergency rule adopted by the department of natural resources under IC 14-10-2-5.

(16) An emergency rule adopted by the Indiana gaming commission under IC 4-32.2-3-3(b), IC 4-33-4-2, IC 4-33-4-3, IC 4-33-4-14, IC 4-33-22-12, or IC 4-35-4-2.

(17) An emergency rule adopted by the alcohol and tobacco commission under IC 7.1-3-17.5, IC 7.1-3-17.7, or IC 7.1-3-20-24.4.

(18) An emergency rule adopted by the department of financial institutions under IC 28-15-11.

(19) An emergency rule adopted by the office of the secretary of family and social services under IC 12-8-1-12.

(20) An emergency rule adopted by the office of the children's health insurance program under IC 12-17.6-2-11.

(21) An emergency rule adopted by the office of Medicaid policy and planning under IC 12-15-41-15.

(22) An emergency rule adopted by the Indiana state board of animal health under IC 15-17-10-9.

(23) An emergency rule adopted by the board of directors of the Indiana education savings authority under IC 21-9-4-7.

(24) An emergency rule adopted by the Indiana board of tax review under IC 6-1.1-4-34 (repealed).

(25) An emergency rule adopted by the department of local government finance under IC 6-1.1-4-33 (repealed).

(26) An emergency rule adopted by the boiler and pressure vessel rules board under IC 22-13-2-8(c).

(27) An emergency rule adopted by the Indiana board of tax review under IC 6-1.1-4-37(l) (repealed) or an emergency rule adopted by the department of local government finance under IC 6-1.1-4-36(j) (repealed) or IC 6-1.1-22.5-20.

(28) An emergency rule adopted by the board of the Indiana economic development corporation under IC 5-28-5-8.

(29) A rule adopted by the department of financial institutions under IC 34-55-10-2.5.

C o p y

(30) A rule adopted by the Indiana finance authority:

(A) under IC 8-15.5-7 approving user fees (as defined in IC 8-15.5-2-10) provided for in a public-private agreement under IC 8-15.5;

(B) under IC 8-15-2-17.2(a)(10):

(i) establishing enforcement procedures; and

(ii) making assessments for failure to pay required tolls;

(C) under IC 8-15-2-14(a)(3) authorizing the use of and establishing procedures for the implementation of the collection of user fees by electronic or other nonmanual means; or

(D) to make other changes to existing rules related to a toll road project to accommodate the provisions of a public-private agreement under IC 8-15.5.

(31) An emergency rule adopted by the board of the Indiana health informatics corporation under IC 5-31-5-8.

(32) An emergency rule adopted by the department of child services under IC 31-25-2-21, IC 31-27-2-4, IC 31-27-4-2, or ~~IC 31-27-4-3.~~ **IC 31-28-5.8.**

(33) An emergency rule adopted by the Indiana real estate commission under IC 25-34.1-2-5(15).

(34) A rule adopted by the department of financial institutions under IC 24-4.4-1-101 and determined necessary to meet an emergency.

(35) An emergency rule adopted by the state board of pharmacy regarding returning unused medication under IC 25-26-23.

(36) An emergency rule adopted by the department of local government finance under IC 6-1.1-12.6 or IC 6-1.1-12.8.

(37) An emergency rule adopted by the office of the secretary of family and social services or the office of Medicaid policy and planning concerning the following:

(A) Federal Medicaid waiver program provisions.

(B) Federal programs administered by the office of the secretary.

(b) The following do not apply to rules described in subsection (a):

(1) Sections 24 through 36 of this chapter.

(2) IC 13-14-9.

(c) After a rule described in subsection (a) has been adopted by the agency, the agency shall submit the rule to the publisher for the assignment of a document control number. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter. The publisher shall

C o p y

determine the format of the rule and other documents to be submitted under this subsection.

(d) After the document control number has been assigned, the agency shall submit the rule to the publisher for filing. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter. The publisher shall determine the format of the rule and other documents to be submitted under this subsection.

(e) Subject to section 39 of this chapter, the publisher shall:

(1) accept the rule for filing; and

(2) electronically record the date and time that the rule is accepted.

(f) A rule described in subsection (a) takes effect on the latest of the following dates:

(1) The effective date of the statute delegating authority to the agency to adopt the rule.

(2) The date and time that the rule is accepted for filing under subsection (e).

(3) The effective date stated by the adopting agency in the rule.

(4) The date of compliance with every requirement established by law as a prerequisite to the adoption or effectiveness of the rule.

(g) Subject to subsection (h), IC 14-10-2-5, IC 14-22-2-6, IC 22-8-1.1-16.1, and IC 22-13-2-8(c), and except as provided in subsections (j), (k), and (l), a rule adopted under this section expires not later than ninety (90) days after the rule is accepted for filing under subsection (e). Except for a rule adopted under subsection (a)(13), (a)(24), (a)(25), or (a)(27), the rule may be extended by adopting another rule under this section, but only for one (1) extension period. The extension period for a rule adopted under subsection (a)(28) may not exceed the period for which the original rule was in effect. A rule adopted under subsection (a)(13) may be extended for two (2) extension periods. Subject to subsection (j), a rule adopted under subsection (a)(24), (a)(25), or (a)(27) may be extended for an unlimited number of extension periods. Except for a rule adopted under subsection (a)(13), for a rule adopted under this section to be effective after one (1) extension period, the rule must be adopted under:

(1) sections 24 through 36 of this chapter; or

(2) IC 13-14-9;

as applicable.

(h) A rule described in subsection (a)(8), (a)(12), (a)(19), (a)(20), (a)(21), (a)(29), or (a)(37) expires on the earlier of the following dates:

(1) The expiration date stated by the adopting agency in the rule.

C o p y

(2) The date that the rule is amended or repealed by a later rule adopted under sections 24 through 36 of this chapter or this section.

(i) This section may not be used to readopt a rule under IC 4-22-2.5.

(j) A rule described in subsection (a)(24) or (a)(25) expires not later than January 1, 2006.

(k) A rule described in subsection (a)(28) expires on the expiration date stated by the board of the Indiana economic development corporation in the rule.

(l) A rule described in subsection (a)(30) expires on the expiration date stated by the Indiana finance authority in the rule.

(m) A rule described in subsection (a)(5) or (a)(6) expires on the date the department is next required to issue a rule under the statute authorizing or requiring the rule.

SECTION 3. IC 5-2-6.1-7.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 7.5. As used in this chapter, "victim of a child sex crime" means an individual who was the victim of:**

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

(2) vicarious sexual gratification (IC 35-42-4-5);

(3) child solicitation (IC 35-42-4-6);

(4) child seduction (IC 35-42-4-7); or

(5) incest (IC 35-46-1-3);

and was less than eighteen (18) years of age at the time the crime occurred.

SECTION 4. IC 5-2-6.1-8, AS AMENDED BY P.L.129-2009, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 8. As used in this chapter, "violent crime" means the following:

(1) A crime under the Indiana Code that is a felony of any kind or a Class A misdemeanor that results in bodily injury or death to the victim but does not include any of the following:

(A) A crime under IC 9-30-5 resulting from the operation of a vehicle other than a motor vehicle.

(B) Involuntary manslaughter resulting from the operation of a motor vehicle by a person who was not intoxicated (IC 35-42-1-4).

(C) Reckless homicide resulting from the operation of a motor vehicle by a person who was not intoxicated (IC 35-42-1-5).

(D) Criminal recklessness involving the use of a motor vehicle, unless the offense was intentional or the person using the motor vehicle was intoxicated (IC 35-42-2-2).

C o p y

(E) A crime involving the operation of a motor vehicle if the driver of the motor vehicle was not charged with an offense under IC 9-30-5.

(F) Battery upon a child (IC 35-42-2-1(a)(2)(B)).

(G) Child molesting (IC 35-42-4-3).

(H) Child seduction (IC 35-42-4-7).

(2) A crime in another jurisdiction in which the elements of the crime are substantially similar to the elements of a crime that, if the crime results in death or bodily injury to the victim, would be a felony or a Class A misdemeanor if committed in Indiana. However, the term does not include any of the following:

(A) A crime in another jurisdiction resulting from operating a vehicle, other than a motor vehicle, while intoxicated.

(B) A crime in another jurisdiction with elements substantially similar to involuntary manslaughter resulting from the operation of a motor vehicle if the crime was committed by a person who was not intoxicated.

(C) A crime in another jurisdiction with elements substantially similar to reckless homicide resulting from the operation of a motor vehicle if the crime was committed by a person who was not intoxicated.

(D) A crime in another jurisdiction with elements substantially similar to criminal recklessness involving the use of a motor vehicle unless the offense was intentional or the person using the motor vehicle was intoxicated.

(E) A crime involving the operation of a motor vehicle if the driver of the motor vehicle was not charged with an offense under IC 9-30-5.

(3) A terrorist act.

SECTION 5. IC 5-2-6.1-16, AS AMENDED BY P.L.121-2006, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 16. (a) A person eligible for assistance under section 12 of this chapter may file an application for assistance with the division if the violent crime was committed in Indiana.

(b) **Except as provided in subsection (e),** the application must be received by the division not more than one hundred eighty (180) days after the date the crime was committed. The division may grant an extension of time for good cause shown by the claimant. However, **and except as provided in subsection (e),** the division may not accept an application that is received more than two (2) years after the date the crime was committed.

(c) The application must be filed in the office of the division in

C o p y

person, through the division's web site, or by first class or certified mail. If requested, the division shall assist a victim in preparing the application.

(d) The division shall accept all applications filed in compliance with this chapter. Upon receipt of a complete application, the division shall promptly begin the investigation and processing of an application.

(e) An alleged victim of a child sex crime may submit an application to the division until the victim becomes thirty-one (31) years of age.

(f) An alleged victim of a battery upon a child under IC 35-42-2-1(a)(2)(B) may submit an application to the division not later than five (5) years after the commission of the offense.

SECTION 6. IC 5-2-6.1-17, AS AMENDED BY P.L.129-2009, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 17. (a) **Except for an alleged victim of a child sex crime,** the division may not award compensation under this chapter unless the violent crime was reported to a law enforcement officer not more than seventy-two (72) hours after the occurrence of the crime.

(b) The division may not award compensation under this chapter until:

(1) law enforcement and other records concerning the circumstances of the crime are available; and

(2) any criminal investigation directly related to the crime has been substantially completed.

(c) If the crime involved a motor vehicle, the division may not award compensation under this chapter until an information or indictment alleging the commission of a crime has been filed by a prosecuting attorney.

SECTION 7. IC 10-13-3-27, AS AMENDED BY P.L.153-2011, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 27. (a) Except as provided in subsection (b), on request, a law enforcement agency shall release a limited criminal history to or allow inspection of a limited criminal history by noncriminal justice organizations or individuals only if the subject of the request:

(1) has applied for employment with a noncriminal justice organization or individual;

(2) has:

(A) applied for a license or is maintaining a license; and

(B) provided criminal history data as required by law to be provided in connection with the license;

(3) is a candidate for public office or a public official;

C o p y

(4) is in the process of being apprehended by a law enforcement agency;
(5) is placed under arrest for the alleged commission of a crime;
(6) has charged that the subject's rights have been abused repeatedly by criminal justice agencies;
(7) is the subject of a judicial decision or determination with respect to the setting of bond, plea bargaining, sentencing, or probation;
(8) has volunteered services that involve contact with, care of, or supervision over a child who is being placed, matched, or monitored by a social services agency or a nonprofit corporation;
(9) is currently residing in a location designated by the department of child services (established by IC 31-25-1-1) or by a juvenile court as the out-of-home placement for a child at the time the child will reside in the location;
(10) has volunteered services at a public school (as defined in IC 20-18-2-15) or nonpublic school (as defined in IC 20-18-2-12) that involve contact with, care of, or supervision over a student enrolled in the school;
(11) is being investigated for welfare fraud by an investigator of the division of family resources or a county office of the division of family resources;
(12) is being sought by the parent locator service of the child support bureau of the department of child services;
(13) is or was required to register as a sex or violent offender under IC 11-8-8; ~~or~~
(14) has been convicted of any of the following:
(A) Rape (IC 35-42-4-1), if the victim is less than eighteen (18) years of age.
(B) Criminal deviate conduct (IC 35-42-4-2), if the victim is less than eighteen (18) years of age.
(C) Child molesting (IC 35-42-4-3).
(D) Child exploitation (IC 35-42-4-4(b)).
(E) Possession of child pornography (IC 35-42-4-4(c)).
(F) Vicarious sexual gratification (IC 35-42-4-5).
(G) Child solicitation (IC 35-42-4-6).
(H) Child seduction (IC 35-42-4-7).
(I) Sexual misconduct with a minor as a felony (IC 35-42-4-9).
(J) Incest (IC 35-46-1-3), if the victim is less than eighteen (18) years of age.
(K) Attempt under IC 35-41-5-1 to commit an offense listed in clauses (A) through (J).

C o p y

(L) Conspiracy under IC 35-41-5-2 to commit an offense listed in clauses (A) through (J).

(M) An offense in any other jurisdiction in which the elements of the offense for which the conviction was entered are substantially similar to the elements of an offense described under clauses (A) through (J);

(15) is identified as a possible perpetrator of child abuse or neglect in an assessment conducted by the department of child services under IC 31-33-8; or

(16) is:

(A) a parent, guardian, or custodian of a child; or

(B) an individual who is at least eighteen (18) years of age and resides in the home of the parent, guardian, or custodian;

with whom the department of child services or a county probation department has a case plan, dispositional decree, or permanency plan approved under IC 31-34 or IC 31-37 that provides for reunification following an out-of-home placement.

However, limited criminal history information obtained from the National Crime Information Center may not be released under this section except to the extent permitted by the Attorney General of the United States.

(b) A law enforcement agency shall allow inspection of a limited criminal history by and release a limited criminal history to the following noncriminal justice organizations:

(1) Federally chartered or insured banking institutions.

(2) Officials of state and local government for any of the following purposes:

(A) Employment with a state or local governmental entity.

(B) Licensing.

(3) Segments of the securities industry identified under 15 U.S.C. 78q(f)(2).

(c) Any person who knowingly or intentionally uses limited criminal history for any purpose not specified under this section commits a Class A misdemeanor.

SECTION 8. IC 29-3-8-9, AS ADDED BY P.L.162-2011, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 9. (a) A probate or juvenile court may include in its order creating a guardianship of a minor the following:

(1) A requirement that the minor must reside with the guardian until the guardianship is terminated or modified.

C o p y

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

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

(1) complies with the terms and conditions; and

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

(c) If:

(1) a petition is filed for modification, resignation, or removal of the guardian or termination of the guardianship before the parent complies with the court ordered terms and conditions described in subsection (a)(2); and

(2) the minor:

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

(B) is participating in a program of informal adjustment;

the court shall refer the petition to the department of child services for the department of child services to determine the placement of the child in accordance with the best interests of the child.

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

(1) if:

(A) the court appoints a guardian for a minor who:

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

(ii) is participating in a program of informal adjustment; and

(B) a petition to modify or terminate the guardianship of the minor or a petition regarding the death, resignation, or removal of the guardian is filed; and

(2) of any hearings related to the petitions described under subdivision (1)(B).

(e) If a minor was the subject of a petition alleging the minor to be a child in need of services or is participating in a program of informal adjustment, the court shall do the following at a hearing regarding a petition filed under this section:

(1) Consider the position of the department of child services.

(2) If requested by the department of child services, allow the department of child services to present evidence regarding:

(A) whether the guardianship should be modified or terminated;

(B) the fitness of the parent to provide for the care and

C o p y

supervision of the minor at the time of the hearing;
(C) the appropriate care and placement of the child; and
(D) the best interests of the child.

(f) The department of child services or the proposed guardian shall notify the court creating a guardianship if the department of child services has approved financial assistance to a guardian for the benefit of the protected person, as a component of child services (as defined in IC 31-9-2-17.8(1)(E)). If the guardian will be provided assistance as a component of child services, the court shall order the guardian to provide financial support to the protected person to the extent the following resources do not fully support the needs of the protected person:

(1) The guardianship property of the protected person.
(2) Child support or other financial assistance received by the guardian from the protected person's parent or parents.
(3) Periodic payments the guardian receives from the department of child services for support of the protected person as set forth in the department of child service's rules or the terms of the guardianship assistance agreement.

SECTION 9. IC 29-3-12-1, AS AMENDED BY P.L.95-2007, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) Unless the protected person has been adjudicated an incapacitated person **or is a recipient or beneficiary of financial assistance provided by the department of child services through a guardianship described in IC 31-9-2-17.8(1)(E),** the court shall terminate the guardianship of a minor upon:

(1) the minor's attaining eighteen (18) years of age; or
(2) the minor's death.

The court may terminate the guardianship of a minor upon the minor's adoption or marriage.

(b) The court shall terminate the guardianship of an incapacitated person upon:

(1) adjudication by the court that the protected person is no longer an incapacitated person; or
(2) the death of the protected person.

(c) The court may terminate any guardianship if:

(1) the guardianship property does not exceed the value of three thousand five hundred dollars ($3,500);
(2) the guardianship property is reduced to three thousand five hundred dollars ($3,500);
(3) the domicile or physical presence of the protected person is changed to another state and a guardian has been appointed for

C o p y

the protected person and the protected person's property in that state; or

(4) the guardianship is no longer necessary for any other reason.

(d) When a guardianship terminates otherwise than by the death of the protected person, the powers of the guardian cease, except that the guardian may pay the claims and expenses of administration that are approved by the court and exercise other powers that are necessary to complete the performance of the guardian's trust, including payment and delivery of the remaining property for which the guardian is responsible: ~~to:~~

(1) **to** the protected person;

(2) in the case of an unmarried minor, to a person having care and custody of the minor with whom the minor resides;

(3) **to** a trust approved by the court, including a trust created by the guardian, in which:

(A) the protected person is the sole beneficiary of the trust; and

(B) the terms of the trust satisfy the requirements of Section 2503(c) of the Internal Revenue Code and the regulations under that Section;

(4) **to** a custodian under the Uniform Transfers to Minors Act (IC 30-2-8.5); or

(5) **to** another responsible person as the court orders.

(e) When a guardianship terminates by reason of the death of the protected person, the powers of the guardian cease, except that the guardian may pay the expenses of administration that are approved by the court and exercise other powers that are necessary to complete the performance of the guardian's trust and may deliver the remaining property for which the guardian is responsible to the protected person's personal representative or to a person who presents the guardian with an affidavit under IC 29-1-8-1 or IC 29-2-1-2. If approved by the court, the guardian may pay directly the following:

(1) Reasonable funeral and burial expenses of the protected person.

(2) Reasonable expenses of the protected person's last illness.

(3) The protected person's federal and state taxes.

(4) Any statutory allowances payable to the protected person's surviving spouse or surviving children.

(5) Any other obligations of the protected person.

SECTION 10. IC 31-9-2-13, AS AMENDED BY P.L.133-2008, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 13. (a) "Child", for purposes of IC 31-15, IC 31-16

C o p y

(excluding IC 31-16-12.5), and IC 31-17, means a child or children of both parties to the marriage. The term includes the following:

(1) Children born out of wedlock to the parties.

(2) Children born or adopted during the marriage of the parties.

(b) "Child", for purposes of the Uniform Interstate Family Support Act under IC 31-18, has the meaning set forth in IC 31-18-1-2.

(c) "Child", for purposes of IC 31-19-5, includes an unborn child.

(d) Except as otherwise provided in this section, "child", for purposes of the juvenile law **and IC 31-27,** means:

(1) a person who is less than eighteen (18) years of age;

(2) a person:

(A) who is eighteen (18), nineteen (19), or twenty (20) years of age; and

(B) who either:

(i) is charged with a delinquent act committed before the person's eighteenth birthday; or

(ii) has been adjudicated a child in need of services before the person's eighteenth birthday; or

(3) a person:

(A) who is alleged to have committed an act that would have been murder if committed by an adult;

(B) who was less than eighteen (18) years of age at the time of the alleged act; and

(C) who is less than twenty-one (21) years of age.

(e) "Child", for purposes of IC 31-36-3, means a person who is less than eighteen (18) years of age.

(f) "Child", for purposes of the Interstate Compact on Juveniles under IC 31-37-23-1, has the meaning set forth in IC 31-37-23-1.

(g) "Child", for purposes of IC 31-16-12.5, means an individual to whom child support is owed under:

(1) a child support order issued under IC 31-14-10 or IC 31-16-6; or

(2) any other child support order that is enforceable under IC 31-16-12.5.

(h) "Child", for purposes of ~~IC 31-27 and~~ IC 31-32-5, means an individual who is less than eighteen (18) years of age.

(i) "Child", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-3.

SECTION 11. IC 31-9-2-14, AS AMENDED BY P.L.52-2007, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 14. (a) "Child abuse or neglect", for purposes of IC 31-32-11-1, IC 31-33, IC 31-34-7-4, and IC 31-39-8-4, refers to a

C o p y

child ~~who is alleged to be a child in need of services as~~ described in IC 31-34-1-1 through IC 31-34-1-5, **regardless of whether the child needs care, treatment, rehabilitation, or the coercive intervention of a court.**

(b) For purposes of subsection (a), the term under subsection (a) does not refer to a child who is alleged to be a ~~child in need of services if the child is alleged to be a~~ victim of a sexual offense under IC 35-42-4-3 unless the alleged offense under IC 35-42-4-3 involves the fondling or touching of the buttocks, genitals, or female breasts, **regardless of whether the child needs care, treatment, rehabilitation, or the coercive intervention of a court.**

(c) "Child abuse or neglect", for purposes of IC 31-34-2.3, refers to acts or omissions by a person against a child as described in IC 31-34-1-1 through IC 31-34-1-9, **regardless of whether the child needs care, treatment, rehabilitation, or the coercive intervention of a court.**

SECTION 12. IC 31-9-2-28, AS AMENDED BY P.L.133-2008, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 28. **(a)** "Court appointed special advocate", for purposes of IC 31-15-6, IC 31-17-6, IC 31-19-16, IC 31-19-16.5, IC 31-28-5, and the juvenile law, means a community volunteer who:

(1) has completed a training program approved by the court;

(2) has been appointed by a court to represent and protect the best interests of a child; and

(3) may research, examine, advocate, facilitate, and monitor a child's situation.

(b) "Court appointed special advocate", for purposes of IC 31-33, IC 31-34, IC 31-35, and IC 31-37, means a community volunteer who:

(1) has completed a training program approved by the court that includes training in:

(A) the identification and treatment of child abuse and neglect; and

(B) early childhood, child, and adolescent development;

as required by 42 U.S.C. 5106a(b)(2)(B)(xiii);

(2) has been appointed by a court to represent and protect the best interests of a child; and

(3) may research, examine, advocate, facilitate, and monitor a child's situation.

SECTION 13. IC 31-9-2-46.7, AS AMENDED BY P.L.143-2008, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 46.7. "Foster care", for purposes of IC 31-25,

C o p y

IC 31-26, IC 31-27, IC 31-28-1, IC 31-28-2, IC 31-28-3, and ~~IC 31-28-5.7,~~ **IC 31-28-5.8,** means living in:

(1) a place licensed under IC 31-27 **or a comparable law of another state; or**

(2) the home of an adult relative who is not licensed as a foster family home.

SECTION 14. IC 31-9-2-46.9, AS AMENDED BY P.L.143-2008, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 46.9. ~~(a)~~ "Foster family home", for purposes of IC 31-27, means a place where an individual resides and provides care and supervision on a twenty-four (24) hour basis to **a child, as defined in section 13(d) of this chapter, who is receiving care and supervision under a juvenile court order or for purposes of placement.**

~~(1) a child who satisfies the conditions set forth in subsection (b);~~

~~(2) an individual~~

~~(A) who is at least eighteen (18) but less than twenty-one (21) years of age;~~

~~(B) who was placed in foster care under the order of a court; and~~

~~(C) who satisfies the conditions set forth in subsection (b). or~~

~~(3) an individual:~~

~~(A) who is at least eighteen (18) but less than twenty-one (21) years of age;~~

~~(B) who is receiving foster care for older youth; and~~

~~(C) who is no longer under the care and supervision of the juvenile court for purposes of placement.~~

~~(b) A child or an individual described in subsection (a)(1) or (a)(2):~~

~~(1) may not be the:~~

~~(A) child;~~

~~(B) stepchild;~~

~~(C) grandchild;~~

~~(D) niece;~~

~~(E) nephew; or~~

~~(F) sibling;~~

~~of the individual providing care and supervision;~~

~~(2) must be separated from the child's or individual's:~~

~~(A) parent;~~

~~(B) stepparent;~~

~~(C) guardian;~~

~~(D) custodian; or~~

~~(E) other relative; and~~

C o p y

~~(3) must be receiving care and supervision under an order of a juvenile court or for the purposes of placement.~~

~~(c) This section may not be construed to require the licensing of an individual who provides foster care to a relative.~~

SECTION 15. IC 31-9-2-50, AS AMENDED BY P.L.1-2010, SECTION 115, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 50. **(a)** "Guardian ad litem", for purposes of IC 31-15-6, IC 31-19-16, IC 31-19-16.5, IC 31-28-5, and the juvenile law, means an attorney, a volunteer, or an employee of a county program designated under IC 33-24-6-4 who is appointed by a court to:

(1) represent and protect the best interests of a child; and

(2) provide the child with services requested by the court, including:

(A) researching;

(B) examining;

(C) advocating;

(D) facilitating; and

(E) monitoring;

the child's situation.

A guardian ad litem who is not an attorney must complete the same court approved training program that is required for a court appointed special advocate under section 28 of this chapter.

(b) "Guardian ad litem", for purposes of IC 31-33, IC 31-34, IC 31-35 and IC 31-37, means an attorney, a volunteer, or an employee of a county program designated under IC 33-24-6-4 who:

(1) is appointed by a court to represent and protect the best interests of a child;

(2) is appointed by a court to provide the child with services requested by the court, including:

(A) researching;

(B) examining;

(C) advocating;

(D) facilitating; and

(E) monitoring;

the child's situation; and

(3) has completed training appropriate for the person's role, including training in:

(A) the identification and treatment of child abuse and neglect; and

(B) early childhood, child, and adolescent development;

as required by 42 U.S.C. 5106a(b)(2)(B)(xiii).

C o p y

A guardian ad litem who is not an attorney must complete the same court approved training program that is required for a court appointed special advocate under section 28 of this chapter.

SECTION 16. IC 31-9-2-88.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 88.7. "Permanency roundtable", for purposes of IC 31-34-21-5.7 and IC 31-37-20-3, means an intervention designed to facilitate the permanency planning process for youth placed out-of-home by identifying solutions for permanency obstacles.**

SECTION 17. IC 31-9-2-106.5, AS ADDED BY P.L.145-2006, SECTION 212, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 106.5. "Related", for purposes of IC 31-27 **and IC 31-28-5.8,** means any of the following relationships to an individual ~~who is less than eighteen (18) years of age~~ by marriage, blood, or adoption:

(1) Parent.
(2) Grandparent.
(3) Brother.
(4) Sister.
(5) Stepparent.
(6) Stepgrandparent.
(7) Stepbrother.
(8) Stepsister.
(9) First cousin.
(10) Uncle.
(11) Aunt.

SECTION 18. IC 31-9-2-109.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 109.5. "Residential placement committee", for purposes of IC 31-25-2-23, means a committee that reviews the placement of youth in a child caring institution, a private secure facility, or a group home licensed by the department to ensure that the placement is in the least restrictive, most family like, and most appropriate setting available and close to the parent's home, consistent with the best interests and special needs of the child.**

SECTION 19. IC 31-9-2-117, AS AMENDED BY P.L.145-2006, SECTION 214, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 117. (a) Except as provided in subsection (b), "shelter care facility", for purposes of the juvenile law, means a place of residence that:

C o p y

(1) is licensed under the laws of any state; and

(2) is not locked to prevent a child's departure unless the administrator determines that locking is necessary to protect the child's health.

(b) "Shelter care facility", for purposes of IC 31-27-3 and IC 31-27-5, means a child caring institution or group home that provides temporary service for not more than ~~sixty (60)~~ **twenty (20)** consecutive days to a child:

(1) who is admitted to a residential facility on an emergency basis;

(2) for twenty-four (24) hours a day; and

(3) who **is:**

~~(A) is not the child, stepchild, grandchild, niece, nephew, or sibling of the individual providing care and supervision;~~

~~(B) is separated from the child's parent, stepparent, guardian, custodian, or other relative; and~~

~~(C) is:~~

~~(i)~~ **(A)** receiving care and supervision under an order of a juvenile court;

~~(ii)~~ **(B)** voluntarily placed by the parent or guardian of the child; or

~~(iii)~~ **(C)** self-referred.

SECTION 20. IC 31-9-2-117.5 IS REPEALED [EFFECTIVE JULY 1, 2012]. ~~Sec. 117.5. "Special needs foster family home", for purposes of IC 31-27, means a foster family home:~~

~~(1) that provides care for:~~

~~(A) a child; or~~

~~(B) an individual at least eighteen (18) but less than twenty-one (21) years of age receiving foster care for older youth under IC 31-28-5.7-1;~~

~~who has a mental, physical, or emotional disability and will require additional supervision or assistance in behavior management, activities of daily living, or management of medical problems; and~~

~~(2) that meets the additional requirements under IC 31-27-4-3.~~

SECTION 21. IC 31-9-2-129.5, AS AMENDED BY P.L.162-2011, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 129.5. "Therapeutic foster family home", for purposes of IC 31-27, means a foster family home:

(1) that provides care to:

(A) a child; or

(B) an individual at least eighteen (18) but less than

C o p y

~~twenty-one (21)~~ **twenty (20)** years of age receiving ~~foster care for older youth~~ **collaborative care** under ~~IC 31-28-5.7-1;~~ **IC 31-28-5.8;**

who has serious emotional disturbances, significant behavioral health needs and functional impairments, or developmental or physical disabilities;

(2) in which the child or individual receives treatment in a family home through an integrated array of services supervised and supported by qualified program staff from:

(A) the department of child services;

(B) a managed care provider that contracts with the division of mental health and addiction; or

(C) a licensed child placing agency; and

(3) that meets the additional requirements of IC 31-27-4-2.

SECTION 22. IC 31-9-2-133 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 133. (a) "Victim of child abuse or neglect", for purposes of IC 31-32-11-1 and IC 31-33, refers to a child ~~in need of services~~ as described in:

(1) IC 31-34-1-1 through IC 31-34-1-5;

(2) IC 31-34-1-10; or

(3) IC 31-34-1-11;

regardless of whether the child needs care, treatment, rehabilitation, or the coercive intervention of a court.

(b) The term does not include a child who ~~is alleged to be a child in need of services if the child~~ is alleged to be a victim of a sexual offense under IC 35-42-4-3 unless the alleged offense under IC 35-42-4-3 involves the fondling or touching of the buttocks, genitals, or female breasts.

SECTION 23. IC 31-25-2-4.5 IS REPEALED [EFFECTIVE JULY 1, 2012]. ~~Sec. 4.5. One (1) time every year, the department shall submit a report to the legislative council that provides:~~

~~(1) data and statistical information regarding the number of individuals receiving foster care who are notified of the twenty-first century scholars program under IC 21-12-6 and IC 21-12-6.5, including the percentage of individuals receiving foster care who are notified; and~~

~~(2) information regarding how the department notifies individuals in foster care of the twenty-first century scholars program under IC 21-12-6 and IC 21-12-6.5.~~

~~The report made to the legislative council must be in an electronic format under IC 5-14-6.~~

SECTION 24. IC 31-25-2-21, AS AMENDED BY P.L.131-2009,

C o p y

SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 21. (a) As used in this section, "transitional services plan" means a plan that provides information concerning the following to an individual described in subsection (b):

(1) Education.
(2) Employment.
(3) Housing.
(4) Health care.
(5) Development of problem solving skills.
(6) Available local, state, and federal financial assistance.

(b) The department shall implement a program that provides a transitional services plan to the following:

(1) An individual who has become or will become:
(A) eighteen (18) years of age; or
(B) emancipated;
while receiving foster care.
(2) An individual who:
(A) is at least eighteen (18) but less than ~~twenty-one (21)~~ **twenty (20)** years of age; and
(B) is receiving ~~foster care for older youth~~ **collaborative care** under ~~IC 31-28-5.7.~~ **IC 31-28-5.8.**

(c) The department shall adopt rules under IC 4-22-2, including emergency rules under IC 4-22-2-37.1, necessary to implement the program described in this section.

SECTION 25. IC 31-25-2-23 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 23. (a) The department shall establish a permanency roundtable (as defined in IC 31-9-2-88.7). The permanency roundtable shall review:**

(1) a child's permanency plan under IC 31-34-21-5.7 if the child is placed in a child caring institution, group home, or private secure facility; and
(2) a child's permanency plan under IC 31-37-20-3 if the child is placed in a child caring institution, group home, or private secure facility;

and make recommendations to the court.

(b) The department shall establish a residential placement committee (as defined in IC 31-9-2-109.5). The residential placement committee shall, before a case plan is approved by the local office or court, review:

(1) a child's placement in a child caring institution, group home, or private secure facility under IC 31-34-15-2; and

C o p y

(2) a child's placement in a child caring institution, group home, or private secure facility under IC 31-37-19-1.5;

and make recommendations to the court.

SECTION 26. IC 31-27-3-10, AS ADDED BY P.L.145-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) The department may grant a waiver of the ~~sixty (60)~~ **twenty (20)** day maximum stay for a child if the child caring institution licensed as a shelter care facility applies for the waiver before the expiration of the ~~sixty (60)~~ **twenty (20)** day period.

(b) The child caring institution shall document in the request for a waiver that the waiver is in the best interest of the child.

SECTION 27. IC 31-27-4-1, AS ADDED BY P.L.145-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) **Except as provided in section 9 of this chapter,** a person may not operate a foster family home without a license issued under this article.

(b) The state or a political subdivision of the state may not operate a foster family home without a license issued under this article.

(c) A person may not operate a foster family home if:

(1) the number of children maintained on the premises at any one (1) time is greater than the number authorized by the license; or

(2) the children are maintained in a building or place not designated by the license.

SECTION 28. IC 31-27-4-2, AS AMENDED BY P.L.162-2011, SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) A person may not operate a therapeutic foster family home without a ~~license~~ **certificate** issued under this article.

(b) The state or a political subdivision of the state may not operate a therapeutic foster family home without a ~~license~~ **certificate** issued under this article.

(c) The department may issue a ~~license~~ **certificate** only for a therapeutic foster family home that meets:

(1) all the ~~licensing~~ **certification** requirements of a foster family home; and

(2) the additional requirements described in this section.

(d) ~~An applicant for a~~ **To receive a** therapeutic ~~foster family home license~~ **certificate, a person** must do the following:

(1) Be licensed as a foster parent under this chapter and 465 IAC 2-1-1 et seq.

(2) Participate in preservice training that includes:

C o p y

(A) preservice training to be licensed as a foster parent under 465 IAC 2-1-1 et seq.; and

(B) additional preservice training in therapeutic foster care.

(e) A person who is issued a ~~license~~ **certificate** to operate a therapeutic foster family home shall, within one (1) year after meeting the training requirements of subsection (d)(2) and, annually thereafter, participate in training that includes:

(1) training as required in order to be licensed as a foster parent under 465 IAC 2-1-1 et seq.; and

(2) additional training in ~~order to be licensed as a~~ therapeutic foster ~~parent under this chapter.~~ **care.**

(f) An operator of a therapeutic foster family home may not provide supervision and care in a therapeutic foster family home to more than four (4) children at the same time, including the children for whom the applicant or operator is a parent, stepparent, guardian, custodian, or other relative, and only two (2) of the children may be foster children. The department may grant an exception to this subsection whenever the placement of siblings in the same therapeutic foster family home is desirable, the foster child has an established, meaningful relationship with the therapeutic foster parent, or it is otherwise in the foster child's best interests.

(g) An operator of a therapeutic foster family home that has a therapeutic foster child placed with the therapeutic foster family home may not accept a placement of a child who is not a therapeutic foster child unless the child who is not a therapeutic foster child is a sibling of the therapeutic foster child who is placed with the therapeutic foster family home or it is in the best interests of the child being placed.

(h) A therapeutic foster family home may provide care for an individual receiving ~~foster care for older youth~~ **collaborative care** under ~~IC 31-28-5.7-1~~ **IC 31-28-5.8.** ~~if the individual is no longer under the care and supervision of a juvenile court.~~

~~(i) An individual who receives foster care for older youth under IC 31-28-5.7-1 in a therapeutic foster family home shall not be considered in determining whether the therapeutic foster family home meets or exceeds the limit set forth in subsection (f).~~

~~(j)~~ **(i)** The department shall adopt rules under IC 4-22-2, including emergency rules under IC 4-22-2-37.1, necessary to carry out this section, including rules governing the number of hours of training required under subsections (d) and (e).

~~(k)~~ **(j)** If a therapeutic foster family home does not meet the requirements under subsection (f) or (g) on July 1, 2011, any foster child placed in the home prior to July 1, 2011, may remain placed.

C o p y

However, a new placement of a child may not be made in violation of this section.

SECTION 29. IC 31-27-4-3 IS REPEALED [EFFECTIVE JULY 1, 2012]. ~~Sec. 3. (a) A person may not operate a special needs foster family home without a license issued under this article.~~

~~(b) The state or a political subdivision of the state may not operate a special needs foster family home without a license issued under this article.~~

~~(c) The department may only issue a license for a special needs foster family home that meets:~~

~~(1) all the licensing requirements of a foster family home; and~~

~~(2) the additional requirements described in this section.~~

~~(d) An applicant for a special needs foster family home license must be licensed as a foster parent under 465 IAC 2-1-1 et seq. that includes participating in preservice training.~~

~~(e) A person who is issued a license to operate a special needs foster family home shall, within one (1) year after meeting the training requirements of subsection (d) and, annually thereafter, participate in training that includes:~~

~~(1) training as required in order to be licensed as a foster parent under 465 IAC 2-1-1 et seq.; and~~

~~(2) additional training that includes specialized training to meet the child's or individual's specific needs.~~

~~(f) An operator of a special needs foster family home may not provide supervision and care as a special needs foster family home if more than:~~

~~(1) five (5) individuals, each of whom:~~

~~(A) is less than eighteen (18) years of age; or~~

~~(B) is at least eighteen (18) years of age and is receiving care and supervision under an order of a juvenile court; or~~

~~(2) four (4) individuals less than six (6) years of age;~~

~~including the children or individuals for whom the provider is a parent, stepparent, guardian, custodian, or other relative, receive care and supervision in the home at the same time. Not more than four (4) of the five (5) individuals described in subdivision (1) may be less than six (6) years of age. The department may grant an exception to this section whenever the department determines that the placement of siblings in the same special needs foster home is desirable, the foster child has an established, meaningful relationship with the foster parents, or it is otherwise in the foster child's best interests.~~

~~(g) An individual who receives foster care for older youth under IC 31-28-5.7-1 in a special needs foster family home shall not be~~

C o p y

~~considered in determining whether the special needs foster family home meets or exceeds the limit set forth in subsection (f)(1).~~

~~(h) The department shall consider the specific needs of each special needs foster child or individual whenever the department determines the appropriate number of children or individuals to place in the special needs foster home under subsection (f). The department may require a special needs foster family home to provide care and supervision to less than the maximum number of children or individuals allowed under subsection (f) upon consideration of the specific needs of a special needs foster child or individual.~~

~~(i) A special needs foster family home may provide care for an individual receiving foster care for older youth under IC 31-28-5.7-1 if the individual is no longer under the care and supervision of a juvenile court.~~

~~(j) The department shall adopt rules under IC 4-22-2, including emergency rules under IC 4-22-2-37.1, necessary to carry out this section, including rules governing the number of hours of training required under subsection (c).~~

~~(k) If a special needs foster family home does not meet the requirements under subsection (f) on July 1, 2011, any foster child placed in the home prior to July 1, 2011 may remain placed. However, a new placement of a child may not be made in violation of this section.~~

SECTION 30. IC 31-27-4-8, AS AMENDED BY P.L.162-2011, SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 8. (a) An applicant may not provide supervision and care as a foster family home if more than:

(1) five (5) individuals, each of whom:

(A) is less than eighteen (18) years of age; or

(B) is at least eighteen (18) years of age and is receiving care and supervision under an order of a juvenile court; or

(2) four (4) individuals less than six (6) years of age;

including the children or individuals for whom the provider is a parent, stepparent, guardian, custodian, or other relative, receive care and supervision at the facility at the same time.

(b) Not more than four (4) of the five (5) individuals in subsection (a)(1) may be less than six (6) years of age.

(c) The department may grant an exception to this section whenever the department determines that:

(1) the placement of siblings in the same foster family home is desirable;

(2) a foster child has an established, meaningful relationship with the foster parents; or

C o p y

(3) it is otherwise in the foster child's best interests.

~~(d) An individual who receives foster care for older youth under IC 31-28-5.7-1 in a foster family home shall not be considered in determining whether the foster family home meets or exceeds the limit set forth in subsection (a)(1).~~

~~(c)~~ **(d)** If a foster family home does not meet the requirements under subsection (a) on July 1, 2011, any foster child placed in the home prior to July 1, 2011, may remain placed. However, a new placement of a child may not be made in violation of this section.

SECTION 31. IC 31-27-4-9, AS ADDED BY P.L.145-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. **(a) A person may operate a foster family home without a license issued under this article if the person is providing care and supervision only for one (1) or more individuals related to the person, as defined in IC 31-9-2-106.5.**

~~(a)~~ **(b)** An applicant may apply for a foster family home license even if the applicant will be providing care and supervision under an order of a juvenile court to a ~~niece, nephew, sibling, or grandchild.~~ **related person.**

~~(b)~~ **(c)** If an applicant described in subsection ~~(a)~~ **(b)** otherwise qualifies for a foster family home license, the department may issue a foster family home license to the applicant.

SECTION 32. IC 31-27-5-11, AS ADDED BY P.L.145-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) The department may grant a waiver of the ~~sixty (60)~~ **twenty (20)** day maximum stay for a child if the group home licensed as a shelter care facility applies for the waiver before the expiration of the ~~sixty (60)~~ **twenty (20)** day period.

(b) The group home shall document in the request for a waiver that the waiver is in the best interest of the child.

SECTION 33. IC 31-28-5.7 IS REPEALED [EFFECTIVE UPON PASSAGE]. (Older Youth Foster Care).

SECTION 34. IC 31-28-5.8 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 5.8. Collaborative Care

Sec. 1. As used in this chapter, "collaborative care" means any services or payments for services that the department provides for older youth under the terms of a collaborative care agreement, while the older youth is residing in:

(1) a foster family home licensed under IC 31-27-4 or a

C o p y

comparable law in the state where the home is located;

(2) a host home under an agreement with the older youth approved by the department;

(3) a child caring institution licensed under IC 31-27-3;

(4) a group home licensed under IC 31-27-5; or

(5) a supervised independent living arrangement approved by the department.

Sec. 2. As used in this chapter, "collaborative care agreement" means a voluntary agreement that:

(1) is signed by the department, a guardian ad litem or court appointed special advocate participating with the consent of the youth, and the older youth;

(2) is approved by a juvenile court under this chapter;

(3) includes provisions required or authorized under the department's rules concerning collaborative care services; and

(4) may be amended by agreement between the department, a guardian ad litem or court appointed special advocate participating with the consent of the youth, and the older youth without review or approval by the court.

Sec. 3. As used in this chapter, "host home" means:

(1) the home of a person related to an older youth that is not licensed under IC 31-27-4 or a comparable law in another state where the home is located; or

(2) the home of one (1) or more adults who are not related to the older youth.

Sec. 4. As used in this chapter, "older youth" means an individual who is at least eighteen (18) years of age but less than twenty (20) years age.

Sec. 5. (a) An older youth who received foster care under a court order during the month before the individual became eighteen (18) years of age is eligible to receive collaborative care services at any time until the individual becomes twenty (20) years of age.

(b) An older youth may request the department to petition a juvenile court for approval of a collaborative care agreement under this chapter.

(c) A court may grant a petition described in subsection (b) if the court finds, consistent with applicable rules of the department, that the older youth is:

(1) employed;

(2) attending school or a vocational or educational certification or degree program;

Copy

(3) participating in a program or activity designed to promote or remove barriers to employment; or

(4) incapable of performing any of the activities in subdivisions (1) through (3) due to a medical condition documented by regularly updated information in the older youth's current case plan.

(d) A child who:

(1) is at least seventeen (17) years and six (6) months of age;

(2) is receiving foster care under a court order; and

(3) expects to be eligible for collaborative care under this chapter when the child becomes an older youth;

may request the department to start the process of planning for collaborative care under this chapter.

Sec. 6. (a) The department shall, jointly with a guardian ad litem or court appointed special advocate participating with the consent of the youth and with the older youth, develop, implement, and update periodically a case plan that is consistent with requirements set forth in:

(1) 45 CFR 1356.21(g);

(2) IC 31-34-15-4; and

(3) the collaborative care agreement.

(b) The case plan must include a transitional services plan, as described in IC 31-25-2-21 and the applicable rules of the department.

(c) The case plan shall provide for visitation between the older youth and a department family case manager at least once every thirty (30) days.

Sec. 7. (a) A court that approves a collaborative care agreement under this chapter shall conduct periodic reviews during the term of the agreement. The court shall review the agreement and the progress made in complying with the provisions of the agreement and case plan developed under section 6 of this chapter.

(b) The court shall conduct each periodic review in a formal court hearing.

(c) The department shall provide a notice of a hearing, as provided in IC 31-32-1-4, at least seven (7) days before the date of the hearing to the following:

(1) The older youth.

(2) The foster parent or any other caretaker with whom the older youth is living, if applicable.

(3) Any caseworker responsible for visitation with the older youth.

C o p y

(4) Any person or agency identified in the collaborative care agreement as a provider of services to the older youth.

(5) Any person or entity providing independent living services to the older youth developed under IC 31-25-2-7(a)(9) or 465 IAC 2-14.

(6) A guardian ad litem or court appointed special advocate participating with the consent of the older youth.

(d) A person to whom the department gives notice under subsection (c) is entitled to participate in a periodic review hearing as set forth in IC 31-34-21-4(d).

(e) The department shall prepare and submit to the court a written progress report for the periodic review hearing. The department shall provide a copy of the report with the notice of the hearing provided under subsection (c).

(f) The court must hold a periodic review hearing:

(1) not later than six (6) months after the date the court grants a petition under section 5 of this chapter; and

(2) at least once every six (6) months until the collaborative care agreement is terminated.

(g) After each periodic review hearing, the court shall enter an order that includes findings and conclusions concerning the progress made in implementing the collaborative care agreement and case plan of the older youth. If a permanency plan has been approved or modified for the youth, the court shall also review the permanency plan.

Sec. 8. (a) A court shall close a collaborative care case at the:

(1) expiration of the term of the collaborative care agreement; or

(2) termination of the collaborative care agreement as set forth in the agreement or by department rules.

(b) If the department terminates a collaborative care agreement before the expiration date without the concurrence of the older youth, the court may, upon the request of the older youth or a guardian ad litem or court appointed special advocate participating with the consent of the older youth under section 2 of this chapter:

(1) hold a hearing regarding the cause of the termination of the collaborative care agreement; and

(2) enter an order containing findings and conclusions regarding whether the department properly terminated the agreement for good cause.

Sec. 9. The department shall adopt rules under IC 4-22-2 to

C o p y

implement this chapter.

Sec. 10. (a) This section applies to an individual receiving older youth foster care under IC 31-28-5.7 before the effective date of this chapter.

(b) The individual and the department may, by September 1, 2012, sign and submit to a court having jurisdiction over the older youth foster care case a new collaborative care agreement if the individual is eligible for collaborative care under this chapter.

(c) If the individual and the department do not sign a new collaborative care agreement under this chapter, the following continue to apply to the individual described in subsection (a):

(1) IC 31-28-5.7 and rules of the department adopted under IC 31-28-5.7-2; and

(2) any placement agreement or transitional services plan between the individual and department;

in effect before the effective date of this chapter.

(d) The department may adopt rules under IC 4-22-2, including emergency rules under IC 4-22-2-37.1, necessary to implement this section.

(e) This section expires June 30, 2015.

SECTION 35. IC 31-30-1-1, AS AMENDED BY P.L.137-2011, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. A juvenile court has exclusive original jurisdiction, except as provided in sections 9, 10, 12, and 13 of this chapter, in the following:

(1) Proceedings in which a child, including a child of divorced parents, is alleged to be a delinquent child under IC 31-37.

(2) Proceedings in which a child, including a child of divorced parents, is alleged to be a child in need of services under IC 31-34.

(3) Proceedings concerning the paternity of a child under IC 31-14.

(4) Proceedings under the interstate compact on juveniles under IC 31-37-23.

(5) Proceedings governing the participation of a parent, guardian, or custodian in a program of care, treatment, or rehabilitation for a child under IC 31-34-16 or IC 31-37-15.

(6) Proceedings under IC 31-34-4, IC 31-34-5, IC 31-37-5, and IC 31-37-6 governing the detention of a child before a petition has been filed.

(7) Proceedings to issue a protective order under IC 31-32-13.

(8) Proceedings in which a child less than sixteen (16) years of

C o p y

age is alleged to have committed an act that would be a misdemeanor traffic offense if committed by an adult.

(9) Proceedings in which a child is alleged to have committed an act that would be an offense under IC 9-30-5 if committed by an adult.

(10) Guardianship of the person proceedings for a child:

(A) who has been adjudicated as a child in need of services;

(B) for whom a juvenile court has approved a permanency plan under IC 31-34-21-7 that provides for the appointment of a guardian of the person; and

(C) who is the subject of a pending child in need of services proceeding under IC 31-34.

(11) Proceedings concerning involuntary drug and alcohol treatment under IC 31-32-16.

(12) Proceedings under the interstate compact for juveniles under IC 11-13-4.5-1.5.

(13) Proceedings under IC 31-28-5.8.

~~(13)~~ **(14)** Other proceedings specified by law.

SECTION 36. IC 31-30-2-1, AS AMENDED BY P.L.234-2007, SECTION 167, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) Except as provided in subsections (b) and (c), the juvenile court's jurisdiction over a delinquent child or a child in need of services and over the child's parent, guardian, or custodian continues until:

(1) the child becomes twenty-one (21) years of age, unless the court discharges the child and the child's parent, guardian, or custodian at an earlier time; or

(2) guardianship of the child is awarded to the department of correction.

(b) The juvenile court may, on its own motion, after guardianship of a child is awarded to the department of correction, reinstate the court's jurisdiction for the purpose of ordering the child's parent, guardian, or custodian to participate in programs operated by or through the department of correction.

(c) The juvenile court's jurisdiction over a parent or guardian of the estate of a child under this section continues until the parent or guardian of the estate has satisfied the financial obligation of the parent or guardian of the estate that is imposed under IC 31-40 (or IC 31-6-4-18 before its repeal).

(d) **Except as provided in subsection (g),** the jurisdiction of the juvenile court over a proceeding described in IC 31-30-1-1(10) for a guardianship of the person continues until the earlier of the date that:

C o p y

(1) the juvenile court terminates the guardianship of the person; or

(2) the child becomes:

(A) nineteen (19) years of age, if a child who is at least eighteen (18) years of age is a full-time student in a secondary school or the equivalent level of vocational or career and technical education; or

(B) eighteen (18) years of age, if clause (A) does not apply.

If the guardianship of the person continues after the child becomes the age specified in subdivision (2), the juvenile court shall transfer the guardianship of the person proceedings to a court having probate jurisdiction in the county in which the guardian of the person resides. If the juvenile court has both juvenile and probate jurisdiction, the juvenile court may transfer the guardianship of the person proceedings to the probate docket of the court.

(e) The jurisdiction of the juvenile court to enter, modify, or enforce a support order under IC 31-40-1-5 continues during the time that the court retains jurisdiction over a guardianship of the person proceeding described in IC 31-30-1-1(10).

(f) At any time, a juvenile court may, with the consent of a probate court, transfer to the probate court guardianship of the person proceedings and any related support order initiated in the juvenile court.

(g) A juvenile court may retain jurisdiction over an older youth, as defined in IC 31-28-5.8-4, who is a recipient or beneficiary of:

(1) kinship guardianship assistance under Title IV-E of the federal Social Security Act (42 U.S.C. 673), as amended; or

(2) other financial assistance provided to or for the benefit of a child who:

(A) was previously adjudicated as a child in need of services or delinquent child;

(B) is a protected person under a legal guardianship if IC 29-3-8-9(f) applies; and

(C) is approved for assistance under a rule or published policy of the department.

SECTION 37. IC 31-30-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. **(a)** The department of correction may petition the court to reinstate the court's jurisdiction over the child and the child's parent, guardian, or custodian to modify the court's decree under IC 31-34-23 or IC 31-37-22 (or IC 31-6-7-16 before its repeal) or order the child's parent, guardian, or custodian to participate in programs operated by or through the

C o p y

department of correction.

(b) The department may petition a court to reinstate the court's jurisdiction over an older youth for purposes of IC 31-28-5.8, including an older youth who previously was a child in need of services who is eligible for collaborative care under IC 31-28-5.8.

SECTION 38. IC 31-33-7-6.5 IS REPEALED [EFFECTIVE UPON PASSAGE]. ~~Sec. 6.5. Child abuse or neglect information may be expunged under IC 31-39-8 if the probative value of the information is so doubtful as to outweigh its validity. Child abuse or neglect information shall be expunged if it is determined to be unsubstantiated after:~~

~~(1) an assessment by the department of a report of a child who may be a victim of child abuse or neglect; or~~

~~(2) a court proceeding.~~

SECTION 39. IC 31-33-18-2, AS AMENDED BY P.L.182-2009(ss), SECTION 380, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2. The reports and other material described in section 1(a) of this chapter and the unredacted reports and other material described in section 1(b) of this chapter shall be made available only to the following:

(1) Persons authorized by this article.

(2) A legally mandated public or private child protective agency investigating a report of child abuse or neglect or treating a child or family that is the subject of a report or record.

(3) A police or other law enforcement agency, prosecuting attorney, or coroner in the case of the death of a child who is investigating a report of a child who may be a victim of child abuse or neglect.

(4) A physician who has before the physician a child whom the physician reasonably suspects may be a victim of child abuse or neglect.

(5) An individual legally authorized to place a child in protective custody if:

(A) the individual has before the individual a child whom the individual reasonably suspects may be a victim of abuse or neglect; and

(B) the individual requires the information in the report or record to determine whether to place the child in protective custody.

(6) An agency having the legal responsibility or authorization to care for, treat, or supervise a child who is the subject of a report or record or a parent, guardian, custodian, or other person who is

C o p y

responsible for the child's welfare.
(7) An individual named in the report or record who is alleged to be abused or neglected or, if the individual named in the report is a child or is otherwise incompetent, the individual's guardian ad litem or the individual's court appointed special advocate, or both.
(8) Each parent, guardian, custodian, or other person responsible for the welfare of a child named in a report or record and an attorney of the person described under this subdivision, with protection for the identity of reporters and other appropriate individuals.
(9) A court, for redaction of the record in accordance with section 1.5 of this chapter, or upon the court's finding that access to the records may be necessary for determination of an issue before the court. However, except for disclosure of a redacted record in accordance with section 1.5 of this chapter, access is limited to in camera inspection unless the court determines that public disclosure of the information contained in the records is necessary for the resolution of an issue then pending before the court.
(10) A grand jury upon the grand jury's determination that access to the records is necessary in the conduct of the grand jury's official business.
(11) An appropriate state or local official responsible for child protection services or legislation carrying out the official's official functions.
(12) A foster care review board established by a juvenile court under IC 31-34-21-9 (or IC 31-6-4-19 before its repeal) upon the court's determination that access to the records is necessary to enable the foster care review board to carry out the board's purpose under IC 31-34-21.
(13) The community child protection team appointed under IC 31-33-3 (or IC 31-6-11-14 before its repeal), upon request, to enable the team to carry out the team's purpose under IC 31-33-3.
(14) A person about whom a report has been made, with protection for the identity of:
(A) any person reporting known or suspected child abuse or neglect; and
(B) any other person if the person or agency making the information available finds that disclosure of the information would be likely to endanger the life or safety of the person.
(15) An employee of the department, a caseworker, or a juvenile probation officer conducting a criminal history check under IC 31-26-5, IC 31-34, or IC 31-37 to determine the

C o p y

appropriateness of an out-of-home placement for a:
(A) child at imminent risk of placement;
(B) child in need of services; or
(C) delinquent child.
The results of a criminal history check conducted under this subdivision must be disclosed to a court determining the placement of a child described in clauses (A) through (C).
(16) A local child fatality review team established under IC 31-33-24-6.
(17) The statewide child fatality review committee established by IC 31-33-25-6.
(18) The department.
(19) The division of family resources, if the investigation report:
(A) is classified as substantiated; and
(B) concerns:
(i) an applicant for a license to operate;
(ii) a person licensed to operate;
(iii) an employee of; or
(iv) a volunteer providing services at;
a child care center licensed under IC 12-17.2-4 or a child care home licensed under IC 12-17.2-5.
(20) A citizen review panel established under IC 31-25-2-20.4.
(21) The department of child services ombudsman established by IC 4-13-19-3.
(22) The state superintendent of public instruction with protection for the identity of:
(A) any person reporting known or suspected child abuse or neglect; and
(B) any other person if the person or agency making the information available finds that disclosure of the information would be likely to endanger the life or safety of the person.

SECTION 40. IC 31-33-18-5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 5. (a) An audio recording of a telephone call to the child abuse hotline is confidential and may be released only upon court order.**

(b) An audio recording of a report of child abuse or neglect that is the subject of a complaint made to a prosecuting attorney under IC 31-33-22-3 shall be released without a court order to the prosecuting attorney upon written request of the prosecuting attorney.

C o p y

SECTION 41. IC 31-33-23 IS REPEALED [EFFECTIVE JULY 1, 2012]. (Report to the General Assembly).

SECTION 42. IC 31-33-24-1, AS ADDED BY P.L.145-2006, SECTION 287, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. As used in this chapter, "child" means an individual less than ~~sixteen (16)~~ **eighteen (18)** years of age.

SECTION 43. IC 31-33-24-3, AS ADDED BY P.L.145-2006, SECTION 287, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. As used in this chapter, "local child fatality review team" refers to a ~~county or~~ regional child fatality review team established under this chapter.

SECTION 44. IC 31-33-24-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 5.5. (a) The department shall establish geographic regions for purposes of this chapter.**

(b) The regions under subsection (a) may consist of one (1) or more counties.

(c) If the department has established regions to carry out other duties of the department, the regions that the department establishes under subsection (a) must be the same regions the department has established to carry out the department's other duties.

SECTION 45. IC 31-33-24-6, AS ADDED BY P.L.145-2006, SECTION 287, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 6. (a) ~~A county may~~ **The department shall** establish a ~~county~~ **local** child fatality review team ~~to~~ **in each region. The local child fatality review team shall** review the death of a child that ~~is:~~ **occurred in the region and is:**

(1) sudden;

(2) unexpected; ~~or~~

(3) unexplained;

(4) assessed by the department for alleged abuse or neglect that resulted in the fatality; or

(5) determined by a coroner in the region served by the local child fatality review team to be the result of a homicide, suicide, or accident.

~~(b) The legislative body of a county (as defined in IC 36-1-2-9) must determine by majority vote whether the county will establish a local child fatality review team.~~

~~(c) If a county elects not to establish a county child fatality review team, the county may join with one (1) or more other counties that have not established a county child fatality review team and form a regional~~

C o p y

~~child fatality review team.~~

~~(d) To establish a regional child fatality review team as described in subsection (c), the legislative body of each county comprising the region must cast a majority of votes in favor of establishing a regional child fatality review team.~~

(b) In conducting a child fatality review under subsection (a), the local child fatality review team shall review every record concerning the deceased child that is held by:

(1) the department; or

(2) the local child fatality review team.

(c) Subject to IC 34-30-15, if the local child fatality review team requests records from a hospital, physician, coroner, law enforcement officer, or mental health professional regarding a death that the local child fatality review team is investigating, the hospital, physician, coroner, law enforcement officer, or mental health professional shall provide the requested records to the local child fatality review team.

SECTION 46. IC 31-33-24-7, AS AMENDED BY P.L.225-2007, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 7. ~~(a)~~ A child fatality review consists of ~~determining:~~

~~(1) whether similar future deaths could be prevented; and~~

~~(2) agencies or resources that should be involved to adequately prevent future deaths of children.~~

~~(b) In conducting the child fatality review under subsection (a), the local child fatality review team shall review every record concerning the deceased child that is held by the department.~~

~~(c) If a local child fatality review team requests records from a hospital, physician, coroner, or mental health professional regarding a death that the local~~ **a** child fatality review team ~~is investigating, the hospital, physician, coroner, or mental health professional shall provide the requested records, subject to IC 34-30-15, to the child fatality review team.~~ **reviewing and discussing the individual circumstances leading to or involved with the fatality.**

SECTION 47. IC 31-33-24-9, AS AMENDED BY P.L.225-2007, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 9. (a) A local child fatality review team consists of the following members:

(1) A coroner or deputy coroner from the area served by the local child fatality review team.

(2) A representative from:

~~(A) the health and hospital corporation of Marion County as~~

C o p y

~~set forth in IC 16-22-8;~~

~~(B)~~ **(A)** a local health department established under IC 16-20-2 **or IC 16-22-8;** or

~~(C)~~ **(B)** a multiple county health department established under IC 16-20-3;

from the area served by the local child fatality review team.

(3) A **pediatrician or family practice** physician residing or practicing medicine in the area served by the local child fatality review team.

(4) A representative of law enforcement from the area served by the local child fatality review team.

(5) A representative from an emergency medical services provider doing business in the area served by the local child fatality review team.

(6) A ~~director or manager of a local or regional office~~ **regional manager** of the department from the area served by the local child fatality review team **or the regional manager's designee.**

(7) A representative of the prosecuting attorney from the area served by the local child fatality review team.

(8) A pathologist with forensic experience who is licensed to practice medicine in Indiana and who, if feasible, is certified by the American Board of Pathology in forensic pathology.

(9) A representative from a fire department or volunteer fire department (as defined in IC 36-8-12-2) from the area served by the local child fatality review team.

(10) A department attorney from the region served by the local child fatality review team.

(11) A mental health provider providing services in the region served by the local child fatality review team.

(12) A representative from a school district in the region served by the local child fatality review team.

(13) The prosecuting attorney from the county where the child fatality occurred, as a nonvoting member.

~~(b) If a local child fatality review team is established in one (1) county, the legislative body that voted to establish the local child fatality review team under section 6 of this chapter shall:~~

~~(1) adopt an ordinance for the appointment and reappointment of members of the local child fatality review team; and~~

~~(2) appoint members to the local child fatality review team under the ordinance adopted.~~

~~(c) If a local child fatality review team is established in a region: the county legislative bodies that voted to establish the local child fatality~~

C o p y

~~review team under section 6 of this chapter shall:~~

~~(1) each adopt substantially similar ordinances for the appointment and reappointment of members of the local child fatality review team; and~~

~~(2) appoint members to the local child fatality review team under the ordinances adopted.~~

(b) Each local office in the region shall submit to the department at least one (1) name of an individual for each member described in subsection (a)(1) through (a)(12) for the department's consideration.

(c) The director or the director's designee shall appoint individuals from the list or lists provided under subsection (b) to serve as members on the local child fatality review team.

SECTION 48. IC 31-33-24-10, AS ADDED BY P.L.145-2006, SECTION 287, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 10. **(a)** A local child fatality review team may have additional members from the following categories:

(1) A representative of a hospital located in the ~~county or~~ region served by the local child fatality review team.

~~(2) A mental health provider providing services in the county or region served by the local child fatality review team.~~

~~(3)~~ **(2)** A representative from a juvenile or probate court in the ~~county or~~ region served by the local child fatality review team.

~~(4)~~ **(3)** Other representatives requested to serve by the members of the local child fatality review team.

(4) A representative from the department of natural resources who lives or works in the region served by the local child fatality review team.

(5) A representative from Prevent Child Abuse Indiana (an organization for the prevention of child abuse) who lives or works in the region served by the local child fatality review team.

(6) One (1) of the following:

(A) A court appointed special advocate who provides court appointed special advocate services in the region served by the local child fatality review team.

(B) A guardian ad litem who provides guardian ad litem services in the region served by the local child fatality review team.

(b) The director or the director's designee shall appoint an additional member of a local child fatality review team in the same manner that the director or the director's designee appoints a

C o p y

member under section 9 of this chapter.

SECTION 49. IC 31-33-24-11, AS ADDED BY P.L.145-2006, SECTION 287, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 11. (a) ~~Any member of a local child fatality review team may serve as chairperson. The chairperson shall be elected by the members of the local child fatality review team at the first meeting of the local child fatality review team.~~ **The regional manager for the region served by a local child fatality review team is the chairperson of the local child fatality review team.**

(b) The local child fatality review team shall meet at the call of the chairperson.

(c) The local child fatality review team chairperson shall determine the agenda for each meeting.

SECTION 50. IC 31-33-24-15, AS AMENDED BY P.L.225-2007, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 15. (a) The department shall collect and document information surrounding the deaths of children reviewed by local child fatality review teams. The department shall develop a data collection form that includes:

(1) identifying and nonidentifying information;

(2) information regarding the circumstances surrounding a death;

(3) factors contributing to a death; and

(4) findings and recommendations **that include the following information:**

(A) Whether similar future deaths could be prevented.

(B) A list of:

(i) agencies and entities that should be involved; and

(ii) any other resources that should be used;

to adequately prevent future child deaths in the region.

(C) A regional strategy that should be implemented to prevent future child deaths.

(b) The data collection form developed under this section must ~~also~~ be provided to **the following:**

(1) The appropriate community child protection team.

~~(2) as appropriate:~~

~~(A) the health and hospital corporation of Marion County as set forth in IC 16-22-8;~~

~~(B) the local health department established under IC 16-20-2; or~~

~~(C) the multiple county health department established under IC 16-20-3; and~~

~~(3) the appropriate coroner and the pathologist who performed the~~

C o p y

~~autopsy on the child.~~

(2) The chairperson of the statewide child fatality review committee.

(3) The chairperson of a local child fatality review team.

(c) Each local child fatality review team shall, using the form established under this section, report to the department the findings for each fatality that the local child fatality review team reviews.

(d) The department shall annually prepare a report of all child fatalities in Indiana that are the result of child abuse or neglect. The report must include the following information:

(1) A summary of the information gathered under subsection (a) for all child abuse or neglect fatalities.

(2) Demographic information regarding victims, perpetrators, and households involved in child abuse or neglect fatalities.

(3) An analysis of the primary risk factors involved in child abuse or neglect fatalities.

(4) A summary of the most frequent causes of child abuse or neglect fatalities.

(5) A description of the manner in which the data was assembled.

The department shall post the report prepared under this subsection to the department's Internet web site.

SECTION 51. IC 31-33-25-6, AS AMENDED BY P.L.182-2009(ss), SECTION 381, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 6. (a) The statewide child fatality review committee is established to review a child's death that is:

(1) sudden;

(2) unexpected; ~~or~~

(3) unexplained;

(4) assessed by the department for alleged abuse or neglect that resulted in the fatality; or

(5) determined by a coroner in the region served by the local child fatality review team to be the result of a homicide, suicide, or accident;

~~if the county where the child died does not have a local child fatality review team or~~ if the local child fatality review team requests a review of the child's death by the statewide committee.

(b) The statewide child fatality review committee may also review the death of a child upon request by ~~an individual or~~ the department of child services ombudsman established by IC 4-13-19-3.

C o p y

(c) A request submitted under subsection (b) must set forth:

(1) the name of the child;

(2) the age of the child;

(3) the county where the child died;

(4) whether a local child fatality review team reviewed the death; and

(5) the cause of death of the deceased child.

SECTION 52. IC 31-33-25-7, AS AMENDED BY P.L.225-2007, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 7. (a) A child fatality review conducted by the statewide child fatality review committee under this chapter must consist of: ~~determining:~~

(1) **determining** whether similar future deaths could be prevented; and

(2) **identifying:**

(A) agencies ~~or resources~~ **and entities** that should be involved; **and**

(B) any other resources that should be used;

to adequately prevent future deaths of children.

(b) In conducting the child fatality review under subsection (a), the statewide child fatality review committee shall review every record concerning the deceased child that is held by:

(1) the department; ~~of child services;~~ or

(2) a local child fatality review team.

(c) **Subject to IC 34-30-15,** if the statewide child fatality review committee requests records from a hospital, physician, coroner, **law enforcement officer,** or mental health professional regarding a death that the statewide child fatality review committee is investigating, the hospital, physician, coroner, **law enforcement officer,** or mental health professional shall provide the requested records ~~subject to IC 34-30-15,~~ to the statewide child fatality review committee.

SECTION 53. IC 31-33-26-9, AS AMENDED BY P.L.162-2011, SECTION 48, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 9. (a) Except as provided in sections 11 and 12 of this chapter, the department shall conduct an administrative hearing upon a request made under section 8 of this chapter.

(b) At the administrative hearing, the department must prove by a preponderance of credible evidence that the perpetrator is responsible for the child's abuse or neglect.

(c) During an administrative hearing under this section, the administrative hearing officer shall consider hearsay evidence to be competent evidence and may not exclude hearsay based on the

C o p y

technical rules of evidence. If not objected to, the hearsay evidence may form the basis for an order. However, if the evidence is properly objected to and does not fall within a recognized exception to the hearsay rule, the resulting order may not be based solely upon the hearsay evidence.

(d) If the department fails to carry the burden of proof under subsection (b), the department shall amend or expunge the report as ordered by the administrative hearing officer within the period provided under section 15 of this chapter.

(e) The department shall maintain the confidentiality of an abuse or a neglect report during the administrative process.

(f) The administrative hearing shall be closed.

(g) The administrative files shall be closed and not disclosed to the public.

(h) The department shall provide a copy of a decision resulting from an administrative hearing under this section to the department of education if:

(1) the alleged perpetrator is licensed by the department of education; or

(2) the incident happened on school property or at a school function.

SECTION 54. IC 31-33-26-11, AS ADDED BY P.L.138-2007, SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 11. (a) If a court having jurisdiction over a child in need of services case under IC 31-34 has determined or is anticipated to determine whether:

(1) a report of suspected child abuse or neglect is properly substantiated;

(2) child abuse or neglect occurred; or

(3) any person was a perpetrator of child abuse or neglect;

the determination of the court is binding.

(b) The administrative hearing under this chapter shall be stayed pending an anticipated action by the court.

(c) A person named as a perpetrator in a report of suspected child abuse or neglect is not entitled to an administrative hearing under this chapter if a court has determined that:

(1) the alleged child abuse or neglect did not occur; or

(2) the person was not a perpetrator of the alleged child abuse or neglect.

(d) The administrative hearing under this chapter shall be stayed pending the conclusion of any program of informal adjustment entered into by the perpetrator of the alleged child

C o p y

abuse or neglect.

SECTION 55. IC 31-33-26-15, AS AMENDED BY P.L.131-2009, SECTION 57, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) The department shall expunge a substantiated report contained within the index ~~as follows:~~

~~(1)~~ not later than ten (10) working days after any of the following occurs:

~~(A)~~ **(1)** A court having jurisdiction over a child in need of services proceeding determines that child abuse or neglect has not occurred.

~~(B)~~ **(2)** An administrative hearing officer under this chapter finds that the child abuse or neglect report is unsubstantiated.

~~(C)~~ **(3)** A court having juvenile jurisdiction enters an order for expungement of the report under ~~IC 31-33-7-6.5.~~ **IC 31-33-27-5.**

~~(2) Not later than twenty (20) years after a court determines that a child is a child in need of services based upon the report.~~

(b) The department shall amend a substantiated report contained in the index by deleting the name of an alleged perpetrator if:

(1) a court having jurisdiction over a child in need of services proceeding; or

(2) an administrative hearing officer under this chapter;

finds that the person was not a perpetrator of the child abuse or neglect that occurred.

~~(c) If subsection (a) does not apply, the department shall expunge the substantiated report not later than the date on which any child who is named in the report as a victim of child abuse or neglect becomes twenty-four (24) years of age.~~

~~(d) The department shall expunge an unsubstantiated report contained in the index not later than six (6) months after the date the report was entered into the index.~~

SECTION 56. IC 31-33-27 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 27. Expungement of Child Abuse or Neglect Reports

Sec. 1. As used in this chapter, "expunge" or "expungement" means:

(1) the removal or deletion of all information maintained by the department concerning a report, assessment, or determination under this article relating to an incident or condition of child abuse or neglect; and

(2) the destruction or delivery of the information to a person to whom the information pertains.

C o p y

Sec. 2. As used in this chapter, "information" includes all files and records created or maintained by the department. The term includes the original and copies of documents, correspondence, messages, photographs, videotapes, audio recordings, audiovisual recordings, and any other material contained in electronic, paper, or digital form or in other media.

Sec. 3. (a) The department shall expunge child abuse or neglect information not later than twenty-four (24) years after the date of birth of the youngest child named in the department's assessment report as an alleged victim of child abuse or neglect, if:

(1) the department approved the assessment as unsubstantiated; or

(2) the court in a child in need of services case entered a final judgment based on a finding that child abuse or neglect did not occur.

(b) The department may, upon the request of an interested person, expunge information relating to an unsubstantiated assessment of child abuse or neglect at any time, if the department determines that the probative value of the information does not justify its retention in the records of the department.

(c) This subsection applies to information that is not expunged under subsection (a) or (b). The department may retain information relating to an unsubstantiated assessment of child abuse or neglect in paper or digital form or in other media that is accessible only by department employees with access rights established by the department through policy or rule.

(d) Information that is retained in the records of the department under subsection (c) may be used by the department to facilitate its assessment of a subsequent report concerning the same child or family.

(e) The department may not rely solely on information available under subsection (c) to support substantiation of a later report, if information obtained in the assessment of the later report is otherwise insufficient to support a substantiated determination.

(f) The department shall adopt a written policy, and may adopt rules under IC 4-22-2, regarding access to information retained under subsection (c).

Sec. 4. (a) The department shall expunge child abuse or neglect information relating to a substantiated report not later than the time specified for expungement of the report from the child protection index under IC 31-33-26-15.

(b) The department shall amend information relating to a

C o p y

substantiated report by deleting the name of a person as an alleged perpetrator if:

(1) a court having jurisdiction over a child in need of services proceeding; or

(2) an administrative hearing officer under IC 31-33-26-9;

finds that the person was not a perpetrator of the child abuse or neglect that occurred.

Sec. 5. (a) This section applies to information relating to substantiated reports in any records of the department.

(b) An individual identified as a perpetrator of child abuse or neglect in a substantiated report may file a petition with a court exercising juvenile jurisdiction in the county in which the individual resides, requesting that the court order the department to expunge the substantiated report and related information.

(c) The petitioner shall:

(1) name the department as respondent in the petition; and

(2) serve the department with a copy of the petition and a summons.

(d) The court shall hold a hearing on the petition and any response filed by the department, unless a hearing is waived by agreement of the parties.

(e) In considering whether to grant a petition filed under this section, the court may review:

(1) the factors listed in IC 31-39-8-3 in relation to the petitioner, if the substantiated report was the subject of a juvenile court case; and

(2) any facts relating to the petitioner's current status, activities, employment, contacts with children, or other circumstances relevant to consideration of whether the petition should be granted.

(f) The court may grant the petition if the court finds, by clear and convincing evidence, that:

(1) there is little likelihood that the petitioner will be a future perpetrator of child abuse or neglect; and

(2) the information has insufficient current probative value to justify its retention in records of the department for future reference.

Sec. 6. If the department expunges child abuse or neglect information under this chapter:

(1) at the request of a perpetrator named in an assessment report;

(2) at or after the time for expungement specified in section

C o p y

4(a) of this chapter; or

(3) under a court order under section 5 of this chapter;

IC 31-39-8-7 applies to any civil action brought against the department or any other agency, entity, or individual, if the content of the expunged information may be relevant to any issue in the civil action.

SECTION 57. IC 31-34-4-7, AS ADDED BY P.L.146-2008, SECTION 579, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 7. (a) This section applies to services and programs provided to or on behalf of a child alleged to be a child in need of services at any time before:

(1) entry of a dispositional decree under IC 31-34-20; or

(2) approval of a program of informal adjustment under IC 31-34-8.

(b) Before a juvenile court orders or approves a service, a program, or an out-of-home placement for a child that has not been recommended by the department, the court shall submit the proposed service, program, or placement to the department for consideration. The department shall, within three (3) business days after receipt of the court's proposal, submit to the court a report stating whether the department approves or disapproves the proposed service, program, or placement.

(c) If the department approves the service, program, or placement recommended by the juvenile court, the court may enter an appropriate order to implement the approved proposal. If the department does not approve a service, program, or placement proposed by the juvenile court, the department may recommend an alternative service, program, or placement for the child.

(d) The juvenile court shall accept the recommendations of the department regarding any predispositional services, programs, or placement for the child, unless the juvenile court finds a recommendation is:

(1) unreasonable, based on the facts and circumstances of the case; or

(2) contrary to the welfare and best interests of the child.

(e) If the juvenile court does not accept the recommendations of the department in the report submitted under subsection (b), the court may enter an order that:

(1) requires the department to provide a specified service, program, or placement until entry of a dispositional decree or until the order is otherwise modified or terminated; and

(2) specifically states the reasons why the juvenile court is not

C o p y

accepting the recommendations of the department, including the court's findings under subsection (d).

(f) If the juvenile court enters its findings and order under subsection (e), the department may appeal the juvenile court's order under any available procedure provided by the Indiana Rules of Trial Procedure or the Indiana Rules of Appellate Procedure to allow any disputes arising under this section to be decided in an expeditious manner.

(g) If the department prevails on appeal, the department shall pay the following costs and expenses incurred by or on behalf of the child before the date of the final decision:

(1) Any programs or services implemented during the appeal initiated under subsection (f), other than the cost of an out-of-home placement ordered by the juvenile court.

(2) Any out-of-home placement ordered by the juvenile court and implemented after entry of the court order of placement, if the juvenile court order includes written findings that the placement is an emergency required to protect the health and welfare of the child.

If the court has not made written findings that the placement is an emergency, the ~~county in which the juvenile court is located is responsible for payment of all costs of the placement, including the cost of services and programs provided by the home or facility where the child was placed.~~ **department shall file a notice with the Indiana judicial center.**

SECTION 58. IC 31-34-10-2, AS AMENDED BY P.L.131-2009, SECTION 62, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2. (a) The juvenile court shall hold an initial hearing on each petition **within ten (10) days after the filing of the petition.**

(b) The juvenile court shall set a time for the initial hearing. A summons shall be issued for the following:

(1) The child.

(2) The child's parent, guardian, custodian, guardian ad litem, or court appointed special advocate.

(3) Any other person necessary for the proceedings.

(c) A copy of the petition must accompany each summons. The clerk shall issue the summons under Rule 4 of the Indiana Rules of Trial Procedure.

(d) If the initial hearing is not scheduled and held within the specified time as described in this section, the child shall be released to the child's parent, guardian, or custodian.

C o p y

(e) The court may schedule an additional initial hearing on the child in need of services petition if necessary to comply with the procedures and requirements of this chapter with respect to any person to whom a summons has been issued under this section.

(f) An additional initial hearing on the child in need of services petition shall be held not more than thirty (30) calendar days after the date of the first initial hearing on the child in need of services petition, unless the court has:

(1) granted an extension of time for extraordinary circumstances; and

(2) stated the extraordinary circumstance in a written court order.

(g) The department shall provide notice of the date, time, place, and purpose of the initial hearing and any additional initial hearing scheduled under this section to each foster parent or other caretaker with whom the child has been temporarily placed under IC 31-34-2.5, IC 31-34-4, or IC 31-34-5. The court shall:

(1) provide a:

(A) person for whom a summons is required to be issued under subsection (b); and

(B) person who is required to be notified under this subsection;

an opportunity to be heard; and

(2) allow a person described in subdivision (1) to make recommendations to the court;

at the initial hearing.

(h) A petition alleging that a child is a child in need of services shall be filed before a detention hearing concerning the child is held.

(i) If a detention hearing is held under IC 31-34-5, the initial hearing on the child in need of services petition shall be held at the same time as the detention hearing.

(j) The court may schedule an additional initial hearing on a child in need of services petition if necessary to comply with the procedures and requirements of this chapter with respect to any person to whom a summons has been issued under this section.

(k) An additional initial hearing under subsection (j) shall be held not more than thirty (30) calendar days after the date of the first initial hearing on the child in need of services petition unless the court:

(1) grants an extension of time for extraordinary circumstances; and

(2) states the extraordinary circumstance in a written court order.

SECTION 59. IC 31-34-11-1, AS AMENDED BY P.L.138-2007, SECTION 71, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

C o p y

JULY 1, 2012]: Sec. 1. (a) Except as provided in subsection (b), unless the allegations of a petition have been admitted, the juvenile court shall complete a factfinding hearing not more than sixty (60) days after a petition alleging that a child is a child in need of services is filed in accordance with IC 31-34-9.

(b) The juvenile court may extend the time to complete a factfinding hearing, as described in subsection (a), for an additional sixty (60) days if all parties in the action consent to the additional time.

(c) If the factfinding hearing is not held immediately after the initial hearing as provided under IC 31-34-10-9, the department shall provide notice of any factfinding hearing to each foster parent or other caretaker with whom the child has been placed for temporary care. The court shall provide a person who is required to be notified under this subsection an opportunity to be heard at the factfinding hearing.

(d) If the factfinding hearing is not held within the time set forth in subsection (a) or (b), upon a motion with the court, the court shall dismiss the case without prejudice.

SECTION 60. IC 31-34-12-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 4. A rebuttable presumption is raised that the child is a child in need of services because of an act or omission of the child's parent, guardian, or custodian if the state introduces competent evidence of probative value that:

(1) the child has been injured;

(2) at the time the child was injured, the parent, guardian, or custodian:

(A) had the care, custody, or control of the child; or

(B) had legal responsibility for the care, custody, or control of the child; ~~and~~

(3) the injury would not ordinarily be sustained except for the act or omission of a parent, guardian, or custodian; **and**

(4) there is a reasonable probability that the injury was not accidental.

SECTION 61. IC 31-34-13-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. This chapter applies to:

(1) an action initiated to determine if a child is a child in need of services under:

~~(1)~~ **(A)** IC 31-34-1-1 through IC 31-34-1-6;

~~(2)~~ **(B)** IC 31-34-1-10; or

~~(3)~~ **(C)** IC 31-34-1-11; **and**

(2) an administrative hearing conducted under IC 31-33-26-9

C o p y

or IC 31-27-4-23.

SECTION 62. IC 31-34-19-1, AS AMENDED BY P.L.146-2006, SECTION 48, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. **(a)** The juvenile court shall complete a dispositional hearing not more than thirty (30) days after the date the court finds that a child is a child in need of services to consider the following:

(1) Alternatives for the care, treatment, rehabilitation, or placement of the child.

(2) The necessity, nature, and extent of the participation by a parent, a guardian, or a custodian in the program of care, treatment, or rehabilitation for the child.

(3) The financial responsibility of the parent or guardian of the estate for services provided for the parent or guardian or the child.

(b) If the dispositional hearing is not completed in the time set forth in subsection (a), upon a filing of a motion with the court, the court shall dismiss the case without prejudice.

SECTION 63. IC 31-34-19-6.1, AS ADDED BY P.L.146-2008, SECTION 601, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 6.1. (a) Before entering its dispositional decree **or a modification to a dispositional decree,** the juvenile court shall do the following:

(1) Consider the recommendations for the needs of the child for care, treatment, rehabilitation, or placement made by the department in the department's predispositional report.

(2) Consider the recommendations for the needs of the child for care, treatment, rehabilitation, or placement made by the parent, guardian or custodian, guardian ad litem or court appointed special advocate, foster parent, other caretaker of the child, or other party to the proceeding.

(3) If the juvenile court determines that the best interests of the child require consideration of other dispositional options, submit the juvenile court's own recommendations for care, treatment, rehabilitation, or placement of the child.

(b) If the juvenile court accepts the recommendations in the department's predispositional report, the juvenile court shall enter its dispositional decree with its findings and conclusions under section 10 of this chapter.

(c) If during or after conclusion of the dispositional hearing **or modification hearing,** the juvenile court does not accept the recommendations of the department as set out under subsection (a) in the predispositional report and states that the juvenile court wants the

C o p y

department to consider the recommendations made under subsection (a)(2) or (a)(3), the dispositional hearing **or modification hearing** shall be continued for not more than seven (7) business days after service of notice of the juvenile court's determination. The department shall consider the recommendations that the juvenile court requested the department to consider and submit to the juvenile court a supplemental predispositional report stating the department's final recommendations and reasons for accepting or rejecting the recommendations that were not included in the department's original predispositional report. If the juvenile court accepts the recommendations in the department's supplemental report, the juvenile court may adopt the recommendations as its findings and enter its dispositional decree.

(d) The juvenile court shall accept each final recommendation of the department contained in a supplemental predispositional report submitted under subsection (c), unless the juvenile court finds that a recommendation is:

(1) unreasonable, based on the facts and circumstances of the case; or

(2) contrary to the welfare and best interests of the child.

(e) If the juvenile court does not accept one (1) or more of the department's final recommendations contained in the department's supplemental predispositional report, the juvenile court shall:

(1) enter its dispositional decree with its written findings and conclusions under sections 6 and 10 of this chapter; and

(2) specifically state why the juvenile court is not accepting the final recommendations of the department.

(f) If the juvenile court enters its findings and decree under subsections (d) and (e), the department may appeal the juvenile court's decree under any available procedure provided by the Indiana Rules of Trial Procedure or the Indiana Rules of Appellate Procedure to allow any disputes arising under this section to be decided in an expeditious manner.

(g) If the department prevails on appeal, the department shall pay the following costs and expenses incurred by or on behalf of the child before the date of the final decision:

(1) Any programs or services implemented during the appeal initiated under subsection (f), other than the cost of an out-of-home placement ordered by the juvenile court.

(2) Any out-of-home placement ordered by the juvenile court and implemented after entry of the dispositional decree or modification order, if the court has made written findings that the

C o p y

placement is an emergency required to protect the health and welfare of the child.

If the court has not made written findings that the placement is an emergency, the ~~county in which the juvenile court is located is responsible for payment of all costs of the placement, including the cost of services and programs provided by the home or facility where the child was placed.~~ **department shall file a notice with the Indiana judicial center.**

SECTION 64. IC 31-34-21-5.5, AS AMENDED BY P.L.145-2006, SECTION 319, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 5.5. (a) In determining the extent to which reasonable efforts to reunify or preserve a family are appropriate under this chapter, the child's health and safety are of paramount concern.

(b) Except as provided in section 5.6 of this chapter, the department shall make reasonable efforts to preserve and reunify families as follows:

(1) If a child has not been removed from the child's home, to prevent or eliminate the need for removing the child from the child's home.

(2) If a child has been removed from the child's home, to make it possible for the child to return safely to the child's home as soon as possible.

(c) The department may, before reunification of the child with a parent, guardian, or custodian, conduct a criminal history check (as defined in IC 31-9-2-22.5) of:

(1) the child's:

(A) parent;

(B) guardian; or

(C) custodian; or

(2) a household member of the:

(A) parent;

(B) guardian; or

(C) custodian.

(d) The department may use the results of a criminal history check conducted under subsection (c) to decide whether it is safe for the child to return home.

SECTION 65. IC 31-34-21-5.7, AS AMENDED BY P.L.145-2006, SECTION 320, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 5.7. (a) This section applies at any phase of a child in need of services proceeding whenever a court enters a finding that reasonable efforts to reunify or preserve a child's family

C o p y

are not required under section 5.6 of this chapter.

(b) The department shall do the following:

(1) Complete a permanency plan for the child that complies with the requirements of section 7.5 of this chapter.

(2) Seek court approval of the permanency plan under section 7 of this chapter.

(3) Refer a case to the permanency roundtable if the department places a child in a child caring institution, group home, or private secure facility.

(c) Notwithstanding any otherwise applicable requirements under IC 31-34, whenever the department seeks approval of a permanency plan for the child under subsection (b), the following reports, orders, and hearings are not required:

(1) A predispositional report to consider participation of a child's parent, guardian, or custodian in any program of care, treatment, or rehabilitation of the child.

(2) A dispositional decree under IC 31-34-19-6 and findings and conclusions under IC 31-34-19-10 that concern:

(A) participation of the child's parent, guardian, or custodian in a program for future care or treatment of the child; or

(B) reasonable efforts to prevent the child's removal from the child's home or to reunite the child with the child's parent, guardian, or custodian.

SECTION 66. IC 31-35-2-4, AS AMENDED BY P.L.21-2010, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 4. (a) A petition to terminate the parent-child relationship involving a delinquent child or a child in need of services may be signed and filed with the juvenile or probate court by any of the following:

(1) The attorney for the department.

(2) The child's court appointed special advocate.

(3) The child's guardian ad litem.

(b) The petition must meet the following requirements:

(1) The petition must be entitled "In the Matter of the Termination of the Parent-Child Relationship of _____, a child, and _____, the child's parent (or parents)".

(2) The petition must allege:

(A) that one (1) of the following is true:

(i) The child has been removed from the parent for at least six (6) months under a dispositional decree.

(ii) A court has entered a finding under IC 31-34-21-5.6 that reasonable efforts for family preservation or reunification

C o p y

are not required, including a description of the court's finding, the date of the finding, and the manner in which the finding was made.

(iii) The child has been removed from the parent and has been under the supervision of a ~~county~~ **local** office ~~of family and children~~ or probation department for at least fifteen (15) months of the most recent twenty-two (22) months, beginning with the date the child is removed from the home as a result of the child being alleged to be a child in need of services or a delinquent child;

(B) that one (1) of the following is true:

(i) There is a reasonable probability that the conditions that resulted in the child's removal or the reasons for placement outside the home of the parents will not be remedied.

(ii) There is a reasonable probability that the continuation of the parent-child relationship poses a threat to the well-being of the child.

(iii) The child has, on two (2) separate occasions, been adjudicated a child in need of services;

(C) that termination is in the best interests of the child; and

(D) that there is a satisfactory plan for the care and treatment of the child.

(3) **If the department intends to file a motion to dismiss under section 4.5 of this chapter,** the petition must indicate whether at least one (1) of the factors listed in section 4.5(d)(1) through 4.5(d)(3) of this chapter applies and specify each factor that would apply as the basis for filing a motion to dismiss the petition.

SECTION 67. IC 31-35-2-4.5, AS AMENDED BY P.L.131-2009, SECTION 66, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 4.5. (a) This section applies if:

(1) a court has made a finding under IC 31-34-21-5.6 that reasonable efforts for family preservation or reunification with respect to a child in need of services are not required; or

(2) a child in need of services or a delinquent child:

(A) has been placed in:

(i) a foster family home, child caring institution, or group home licensed under IC 31-27; or

(ii) the home of a person related (as defined in IC 31-9-2-106.5) to the child;

as directed by a court in a child in need of services proceeding under IC 31-34 or a delinquency action under IC 31-37; and

C o p y

(B) has been removed from a parent and has been under the supervision of the department or county probation department for not less than fifteen (15) months of the most recent twenty-two (22) months, beginning with the date the child is removed from the home as a result of the child being alleged to be a child in need of services or a delinquent child.

(b) A person described in section 4(a) of this chapter shall:

(1) file a petition to terminate the parent-child relationship under section 4 of this chapter; and

(2) request that the petition be set for hearing.

(c) If a petition under subsection (b) is filed by the child's court appointed special advocate or guardian ad litem, the department shall be joined as a party to the petition.

(d) A ~~party shall~~ **person described in section 4(a) of this chapter may** file a motion to dismiss the petition to terminate the parent-child relationship if any of the following circumstances apply:

(1) That the current case plan prepared by or under the supervision of the department or the probation department under IC 31-34-15, IC 31-37-19-1.5, or IC 31-37-22-4 has documented a compelling reason, based on facts and circumstances stated in the petition or motion, for concluding that filing, or proceeding to a final determination of, a petition to terminate the parent-child relationship is not in the best interests of the child. A compelling reason may include the fact that the child is being cared for by a custodian who is a parent, stepparent, grandparent, or responsible adult who is the child's sibling, aunt, or uncle or a person related (as defined in IC 31-9-2-106.5) to the child who is caring for the child as a legal guardian.

(2) That:

(A) IC 31-34-21-5.6 is not applicable to the child;

(B) the department or the probation department has not provided family services to the child, parent, or family of the child in accordance with a currently effective case plan prepared under IC 31-34-15 or IC 31-37-19-1.5 or a permanency plan or dispositional decree approved under IC 31-34 or IC 31-37, for the purpose of permitting and facilitating safe return of the child to the child's home; and

(C) the period for completion of the program of family services, as specified in the current case plan, permanency plan, or decree, has not expired.

(3) That:

(A) IC 31-34-21-5.6 is not applicable to the child;

C o p y

(B) the department has not provided family services to the child, parent, or family of the child, in accordance with applicable provisions of a currently effective case plan prepared under IC 31-34-15 or IC 31-37-19-1.5, or a permanency plan or dispositional decree approved under IC 31-34 or IC 31-37; and

(C) the services that the department has not provided are substantial and material in relation to implementation of a plan to permit safe return of the child to the child's home.

The motion to dismiss shall specify which of the allegations described in subdivisions (1) through (3) apply to the motion. If the court finds that any of the allegations described in subdivisions (1) through (3) are true, as established by a preponderance of the evidence, the court shall dismiss the petition to terminate the parent-child relationship.

SECTION 68. IC 31-35-2-6, AS AMENDED BY P.L.146-2006, SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 6. **(a)** Except when a hearing is required after June 30, 1999, under section 4.5 of this chapter, the person filing the petition ~~may~~ **shall** request the court to set the petition for a hearing. Whenever a hearing is requested under this chapter, the court shall:

(1) commence a hearing on the petition not more than ninety (90) days after a petition is filed under this chapter; and

(2) complete a hearing on the petition not more than one hundred eighty (180) days after a petition is filed under this chapter.

(b) If a hearing is not held within the time set forth in subsection (a), upon filing a motion with the court by a party, the court shall dismiss the petition to terminate the parent-child relationship without prejudice.

SECTION 69. IC 31-35-3-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 7. (a) The person filing the petition ~~may~~ **shall** request that the court set the petition for a hearing.

(b) Whenever a hearing on the petition is requested under this chapter, the court shall commence the hearing not more than ninety (90) days after a petition is filed under this chapter.

(c) If a hearing is not held within the time set forth in subsection (b), upon filing a motion with the court by a party, the court shall dismiss the petition without prejudice.

SECTION 70. IC 31-37-5-8, AS AMENDED BY P.L.131-2009, SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 8. (a) This section applies to services and programs provided to or on behalf of a child alleged to be a delinquent

C o p y

child at any time before:

(1) entry of a dispositional decree under IC 31-37-19; or

(2) approval of a program of informal adjustment under IC 31-37-9.

(b) Except as provided in subsection (c), before a juvenile court orders or approves a service, a program, or an out-of-home placement for a child:

(1) that is recommended by a probation officer or proposed by the juvenile court;

(2) for which the costs would be payable by the department under IC 31-40-1-2; and

(3) that has not been approved by the department;

the juvenile court shall submit the proposed service, program, or placement to the department for consideration. The department shall, not later than three (3) business days after receipt of the recommendation or proposal, submit to the court a report stating whether the department approves or disapproves the proposed service, program, or placement.

(c) If the juvenile court makes written findings and concludes that an emergency exists requiring an immediate out-of-home placement to protect the health and welfare of the child, the juvenile court may order or authorize implementation of the placement without first complying with the procedure specified in this section. After entry of an order under this subsection, the juvenile court shall submit a copy of the order to the department for consideration under this section of possible modification or alternatives to the placement and any related services or programs included in the order.

(d) If the department approves the service, program, or placement recommended by the probation officer or juvenile court, the juvenile court may enter an appropriate order to implement the approved proposal. If the department does not approve a service, program, or placement recommended by the probation officer or proposed by the juvenile court, the department may recommend an alternative service, program, or placement for the child.

(e) The juvenile court shall accept the recommendations of the department regarding any predispositional services, programs, or placement for the child unless the juvenile court finds a recommendation is:

(1) unreasonable, based on the facts and circumstances of the case; or

(2) contrary to the welfare and best interests of the child.

(f) If the juvenile court does not accept the recommendations of the

C o p y

department in the report submitted under subsection (b), the court:

(1) may enter an order that:

(A) requires the department to provide a specified service, program, or placement, until entry of a dispositional decree or until the order is otherwise modified or terminated; and

(B) specifically states the reasons why the juvenile court is not accepting the recommendations of the department, including the juvenile court's findings under subsection (e); and

(2) must incorporate all documents referenced in the report submitted to the probation officer or to the court by the department into the order so that the documents are part of the record for any appeal the department may pursue under subsection (g).

(g) If the juvenile court enters its findings and order under subsections (e) and (f), the department may appeal the juvenile court's order under any available procedure provided by the Indiana Rules of Trial Procedure or the Indiana Rules of Appellate Procedure to allow any disputes arising under this section to be decided in an expeditious manner.

(h) If the department prevails on an appeal initiated under subsection (g), the department shall pay the following costs and expenses incurred by or on behalf of the child before the date of the final decision:

(1) Any programs or services implemented during the appeal, other than the cost of an out-of-home placement ordered by the juvenile court.

(2) Any out-of-home placement ordered by the juvenile court and implemented after entry of the court order of placement, if the court has made written findings that the placement is an emergency required to protect the health and welfare of the child.

If the court has not made written findings that the placement is an emergency, the ~~county in which the juvenile court is located is responsible for payment of all costs of the placement, including the cost of services and programs provided by the home or facility where the child was placed.~~ **department shall file a notice with the Indiana judicial center.**

SECTION 71. IC 31-37-17-4, AS AMENDED BY P.L.146-2008, SECTION 642, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 4. (a) If consistent with the safety and best interest of the child and the community, the probation officer preparing the report shall recommend care, treatment, rehabilitation, or placement that:

C o p y

(1) is:

(A) in the least restrictive (most family like) and most appropriate setting available; and

(B) close to the parents' home, consistent with the best interest and special needs of the child;

(2) least interferes with family autonomy;

(3) is least disruptive of family life;

(4) imposes the least restraint on the freedom of the child and the child's parent, guardian, or custodian; and

(5) provides a reasonable opportunity for participation by the child's parent, guardian, or custodian.

(b) If the report recommends a placement or services for which the department will be responsible for payment under IC 31-40-1, the report must include a risk assessment and needs assessment for the child. The probation officer shall submit to the department a copy of the report and the financial report prepared by the probation officer.

(c) If the report does not include the:

(1) risk assessment and needs assessment required in subsection (b); or

(2) information required to be provided under section 1(a)(3) of this chapter;

the department ~~is not responsible to pay for programs, services, or placement for or on behalf of the child.~~ **shall file a notice with the Indiana judicial center.**

SECTION 72. IC 31-37-18-9, AS AMENDED BY P.L.131-2009, SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 9. (a) The juvenile court shall accompany the court's dispositional decree with written findings and conclusions upon the record concerning approval, modification, or rejection of the dispositional recommendations submitted in the predispositional report, including the following specific findings:

(1) The needs of the child for care, treatment, rehabilitation, or placement.

(2) The need for participation by the parent, guardian, or custodian in the plan of care for the child.

(3) Efforts made, if the child is removed from the child's parent, guardian, or custodian, to:

(A) prevent the child's removal from; or

(B) reunite the child with;

the child's parent, guardian, or custodian.

(4) Family services that were offered and provided to:

(A) the child; or

C o p y

(B) the child's parent, guardian, or custodian.

(5) The court's reasons for the disposition.

(b) If the department does not concur with the probation officer's recommendations in the predispositional report and the juvenile court does not follow the department's alternative recommendations, the juvenile court shall:

(1) accompany the court's dispositional decree with written findings that the department's recommendations contained in the predispositional report are:

(A) unreasonable based on the facts and circumstances of the case; or

(B) contrary to the welfare and best interests of the child; and

(2) incorporate all documents referenced in the report submitted to the probation officer or to the court by the department into the order so that the documents are part of the record for any appeal the department may pursue under subsection (d).

(c) The juvenile court may incorporate a finding or conclusion from a predispositional report as a written finding or conclusion upon the record in the court's dispositional decree.

(d) If the juvenile court enters findings and a decree under subsection (b), the department may appeal the juvenile court's decree under any available procedure provided by the Indiana Rules of Trial Procedure or Indiana Rules of Appellate Procedure to allow any disputes arising under this section to be decided in an expeditious manner.

(e) If the department prevails on appeal, the department shall pay the following costs and expenses incurred by or on behalf of the child before the date of the final decision:

(1) any programs or services implemented during the appeal initiated under subsection (d), other than the cost of an out-of-home placement ordered by the juvenile court; and

(2) any out-of-home placement ordered by the juvenile court and implemented after entry of the dispositional decree or modification order, if the juvenile court has made written findings that the placement is an emergency required to protect the health and welfare of the child.

If the court has not made written findings that the placement is an emergency, the ~~county in which the juvenile court is located is responsible for payment of all costs of the placement, including the cost of services and programs provided by the home or facility where the child was placed.~~ **department shall file a notice with the Indiana judicial center.**

C o p y

SECTION 73. IC 31-37-20-3, AS AMENDED BY P.L.146-2008, SECTION 656, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 3. (a) The court shall hold a formal hearing on the question of continued jurisdiction:

(1) every eighteen (18) months after:

(A) the date of the original dispositional decree; or

(B) a delinquent child was removed from the child's parent, guardian, or custodian;

whichever comes first; or

(2) more often if ordered by the juvenile court.

(b) The state must show that jurisdiction should continue by proving that the objectives of the dispositional decree have not been accomplished and that a continuation of the decree with or without modifications has a probability of success.

(c) If the state does not sustain the state's burden for continued jurisdiction, the court may:

(1) authorize a petition for termination of the parent-child relationship; or

(2) discharge the child or the child's parent, guardian, or custodian.

(d) A jurisdictional review of the dispositional decree, including a review of the child's permanency plan, if required under IC 31-37-19-1.5, shall be held at least once every twelve (12) months.

(e) The department shall refer a child's permanency plan to a permanency roundtable before a jurisdictional review under subsection (d). The permanency roundtable may make recommendations regarding a permanency plan, and the recommendations must be included in a report under section 4 of this chapter.

SECTION 74. IC 31-37-20-4, AS AMENDED BY P.L.146-2008, SECTION 657, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 4. Before a hearing under section 2 or 3 of this chapter, the probation department shall prepare a report in accordance with IC 31-37-21 on the progress made in implementing the dispositional decree. **A report under this section shall also include recommendations from the permanency roundtable under section 3 of this chapter.**

SECTION 75. IC 31-40-1-2, AS AMENDED BY P.L.204-2011, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2. (a) Except as otherwise provided in this section and subject to:

(1) this chapter; and

C o p y

(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 **or IC 11-13-4.5-1.5.**

(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 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.~~

(d) The department is not responsible for the payment of any costs or expenses for child services for a child placed in a child caring institution, a group home, or a private secure facility if the entity does not have an executed contract with the department, unless the child services to be provided by the entity are recommended or approved by the director of the department or the director's designee in writing prior to the placement.

~~(f)~~ **(e)** 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.

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

Copy

~~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;~~

~~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.~~

~~(i)~~ **(f)** If a county is responsible for the payment of:

(1) any costs or expenses of services for or the placement of a child in need of services; or

(2) the costs or expenses of services for or the placement of a delinquent child;

the court may order the parents to reimburse the county as set forth in section 3.8 of this chapter.

SECTION 76. [EFFECTIVE JULY 1, 2012] **(a) As used in this SECTION, "committee" refers to the interim study committee on underserved youth with mental health issues, as established by subsection (b).**

(b) There is established the interim study committee on underserved youth with mental health issues. The committee shall study:

(1) whether prosecuting attorneys should be allowed to file a petition alleging that a child is a child in need of services under IC 31-34-1-6; and

(2) the unmet mental health needs of children within the juvenile justice system, including children in need of services and delinquent children.

(c) The committee shall operate under the policies governing study committees adopted by the legislative council.

(d) The committee consists of the following members:

(1) Four (4) senators appointed by the president pro tempore of the senate in consultation with the minority leader of the senate, not more than two (2) of whom may be members of the same political party.

C o p y

(2) Four (4) representatives appointed by the speaker of the house of representatives in consultation with the minority leader of the house of representatives, not more than two (2) of whom may be members of the same political party.

(3) The chairperson of the juvenile justice improvement committee.

(4) The president of the Indiana council of juvenile and family court judges.

(5) The director of the department of child services or the director's designee.

(6) The director of the division of mental health and addiction or the director's designee.

(7) The executive director of the prosecuting attorneys council or the executive director's designee.

(8) The executive director of the public defenders council or the executive director's designee.

(9) The state superintendent of public instruction or the state superintendent's designee.

(10) The commissioner of the department of correction or the commissioner's designee.

(e) The affirmative votes of a majority of the members of the committee are required for the committee to take action on any measure, including final reports.

(f) This SECTION expires December 31, 2013.

SECTION 77. [EFFECTIVE JULY 1, 2012] **(a) As used in this SECTION, "committee" refers to the department of child services interim study committee, as established by subsection (b).**

(b) There is established the department of child services interim study committee. The committee shall do the following:

(1) Review and study the progress and improvements made by the department of child services since its creation in 2005.

(2) Review best practices concerning child welfare, child mental health, and delinquent children.

(3) Receive and review status reports from the department of child services ombudsman.

(4) Review and study the department of child services child abuse and neglect hotline, including the process used to refer a report to a local office.

(5) Make legislative recommendations concerning the department of child services.

(c) The committee shall operate under the policies governing study committees adopted by the legislative council.

C o p y

(d) The committee consists of the following members:

(1) Four (4) senators appointed by the president pro tempore of the senate in consultation with the minority leader of the senate, not more than two (2) of whom may be members of the same political party.

(2) Four (4) representatives appointed by the speaker of the house of representatives in consultation with the minority leader of the house of representatives, not more than two (2) of whom may be members of the same political party.

(3) The director of the department of child services or the director's designee, who shall serve as a nonvoting member.

(4) The director of the division of mental health and addiction or the director's designee, who shall serve as a nonvoting member.

(5) The executive director of the prosecuting attorneys council or the executive director's designee, who shall serve as a nonvoting member.

(6) The executive director of the public defenders council or the executive director's designee, who shall serve as a nonvoting member.

(7) A provider of foster care services to the department of child services, who shall serve as a nonvoting member, appointed by the president pro tempore of the senate.

(8) A provider of residential or group home services to the department of child services, who shall serve as a nonvoting member, appointed by the speaker of the house of representatives.

(9) One (1) juvenile or family court judge, who shall serve as a nonvoting member, appointed by the president pro tempore of the senate.

(10) One (1) juvenile or family court judge, who shall serve as a nonvoting member, appointed by the speaker of the house of representatives.

(e) The affirmative votes of a majority of the voting members of the committee are required for the committee to take action on any measure, including final reports.

(f) This SECTION expires December 31, 2013.

SECTION 78. **An emergency is declared for this act.**

C o p y

President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

C o p y