February 15, 2013

HOUSE BILL No. 1041

DIGEST OF HB 1041 (Updated February 13, 2013 2:35 pm - DI 107)

Citations Affected: IC 29-3; IC 31-14; IC 31-17.

Synopsis: Petitions to modify custody and visitation. Provides that if a person files a petition to establish or modify a guardianship, visitation, or child custody, the person shall state in a verified petition whether the person has been determined to be a perpetrator in a substantiated assessment of child abuse or neglect, whether the child has been determined to be a victim of a substantiated assessment of child abuse and neglect, whether the child has been determined to be a child in need of services, or whether the child has been involved in an informal adjustment. (The introduced version of this bill was prepared by the department of child services interim study committee.)

Effective: July 1, 2013.

Kubacki, Mahan, Riecken

January 7, 2013, read first time and referred to Committee on Family, Children and Human Affairs.
February 14, 2013, amended, reported — Do Pass.

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February 15, 2013

First Regular Session 118th General Assembly (2013)

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 2012 Regular Session of the General Assembly.

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HOUSE BILL No. 1041

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 29-3-2-7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 7. (a) A person who files a petition to establish or modify a guardianship of a person less than eighteen (18) years of age must set forth in a verified petition whether:**

(1) the person filing the petition has been the perpetrator of a substantiated assessment of child abuse or neglect;

(2) the child named in the petition has been a victim of a substantiated assessment of child abuse or neglect;

(3) the child under the guardianship has been determined to be a child in need of services under IC 31-34; and

(4) the child has been involved in an informal adjustment under IC 31-34-8.

(b) If a person has been the subject of an investigation as described in subsection (a)(1), the petition must set forth when the assessment occurred.

(c) If the person under the guardianship has been the subject of

a child in need of services case as described in subsection (a)(3), the petition must set forth:

(1) the date of the child in need of services determination;

(2) the court that determined the child in need of services determination;

(3) under which statute the court determined the child to be a child in need of services; and

(4) whether the person is a child in need of services at the time of the filing of the petition.

(d) A court reviewing a petition to modify a guardianship may request information regarding the department of child services assessment or case of the person filing the petition or the person under the guardianship. The department shall provide a response under seal to the court's request for information not later than ten (10) days after the court requests the information.

SECTION 2. IC 31-14-13-12 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 12. (a) A person who files a petition to establish or modify the custody of a child or parenting time with a child must set forth in a verified petition whether:**

(1) the person filing the petition has been the perpetrator of a substantiated assessment of child abuse or neglect;

(2) the child named in the petition has been a victim of a substantiated assessment of child abuse or neglect;

(3) the child has been determined to be a child in need of services under IC 31-34; and

(4) the child has been involved in an informal adjustment under IC 31-34-8.

(b) If a person has been the perpetrator of a substantiated assessment as described in subsection (a)(1), the petition must set forth when the assessment occurred.

(c) If the child has been determined to be a child in need of services as described in subsection (a)(2), the petition must set forth:

(1) the date of the child in need of services determination;

(2) the court that determined the child in need of services determination;

(3) under which statute the court determined the child to be a child in need of services; and

(4) whether the person is a child in need of services at the time of the filing of the petition.

(d) A court reviewing a petition to modify the custody of a child

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or parenting time with a child may request information regarding the department of child services assessment or case of the person filing the petition or the child. The department shall provide a response under seal to the court's request for information not later than ten (10) days after the court requests the information.

SECTION 3. IC 31-14-14-6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 6. (a) A person who files a petition to establish or modify parenting time must set forth in a verified petition whether:**

(1) the person filing the petition has been the perpetrator of a substantiated assessment of child abuse or neglect;

(2) the child named in the petition has been a victim of a substantiated assessment of child abuse or neglect;

(3) the child has been determined to be a child in need of services under IC 31-34; and

(4) the child has been involved in an informal adjustment under IC 31-34-8.

(b) If a person has been the perpetrator of a substantiated assessment as described in subsection (a)(1), the petition must set forth when the assessment occurred.

(c) If the child has been determined to be a child in need of services as described in subsection (a)(2), the petition must set forth:

(1) the date of the child in need of services determination;

(2) the court that determined the child in need of services determination;

(3) under which statute the court determined the child to be a child in need of services; and

(4) whether the person is a child in need of services at the time of the filing of the petition.

(d) A court reviewing a petition to modify parenting time may request information regarding the department of child services case of the person filing the petition or the child. The department shall provide a response under seal to the court's request for information not later than ten (10) days after the court requests the information.

SECTION 4. IC 31-17-2-26 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 26. (a) A person who files a petition to establish or modify custody of a child must set forth in a verified petition whether:**

(1) the person filing the petition has been the perpetrator of a

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substantiated assessment of child abuse or neglect;

(2) the child named in the petition has been a victim of a substantiated assessment of child abuse or neglect;

(3) the child has been determined to be a child in need of services under IC 31-34; and

(4) the child has been involved in an informal adjustment under IC 31-34-8.

(b) If a person has been perpetrator of a substantiated assessment as described in subsection (a)(1), the petition must set forth when the assessment occurred.

(c) If the child has been determined to be a child in need of services as described in subsection (a)(2), the petition must set forth:

(1) the date of the child in need of services determination;

(2) the court that determined the child in need of services determination;

(3) under which statute the court determined the child to be a child in need of services; and

(4) whether the person is a child in need of services at the time of the filing of the petition.

(d) A court reviewing a petition to modify custody of a child may request information regarding the department of child services case or the child in need of services case of the person filing the petition or the child. The department shall provide a response under seal to the court's request for information not later than ten (10) days after the court requests the information.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Family, Children and Human Affairs, to which was referred House Bill 1041, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 5, after "forth" insert "**in**".

Page 1, line 6 delete "or the person under the".

Page 1, line 7, delete "guardianship".

Page 1, line 7, delete "investigated by the department of child" and insert "**the perpetrator of a substantiated assessment of child abuse or neglect;**".

Page 1, delete line 8.

Page 1, line 9, after "(2)" insert "**the child named in the petition has been a victim of a substantiated assessment of child abuse or neglect;**

(3)".

Page 1, line 9, delete "person" and insert "**child**".

Page 1, line 10, delete "IC 31-34." and insert "**IC 31-34; and**

(4) the child has been involved in an informal adjustment under IC 31-34-8.".

Page 1, line 12, delete "forth:" and insert "**forth**".

Page 1, line 13, delete "(1)".

Page 1, line 13, delete "investigation occurred; and" and insert "**assessment occurred.**".

Page 1, run in lines 12 through 13.

Page 1, delete line 14.

Page 1, line 15, delete "determined to" and insert "**the subject of**".

Page 1, line 16, delete "be".

Page 1, line 16, after "services" insert "**case**".

Page 1, line 16, delete "(a)(2)" and insert "**(a)(3)**".

Page 2, line 9, after "services" insert "**assessment or**".

Page 2, line 10, delete "or the child in need of services case".

Page 2, line 12, delete "answer" and insert "**provide a response under seal to**".

Page 2, line 19, delete "or the child".

Page 2, line 20, delete "investigated by the department of child services; and" and insert "**the perpetrator of a substantiated assessment of child abuse or neglect;**

(2) the child named in the petition has been a victim of a substantiated assessment of child abuse or neglect;".

Page 2, line 21, delete "(2)" and insert "**(3)**".

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Page 2, line 22, delete "IC 31-34." and insert "**IC 31-34; and**

(4) the child has been involved in an informal adjustment under IC 31-34-8.".

Page 2, line 23, delete "subject of an investigation" and insert "**perpetrator of a substantiated assessment**".

Page 2, line 24, delete "forth:" and insert "**forth**".

Page 2, line 25, delete "(1)".

Page 2, line 25, delete "investigation occurred; and" and insert "**assessment occurred.**".

Page 2, run in lines 24 through 25.

Page 2, delete line 26.

Page 2, line 39, after "services" insert "**assessment or**".

Page 2, line 39, delete "or the child in need of".

Page 2, line 40, delete "services case".

Page 2, line 41, delete "answer" and insert "**provide a response under seal to**".

Page 3, line 5, delete "or the child".

Page 3, line 6, delete "investigated by the department of child services; and" and insert "**the perpetrator of a substantiated assessment of child abuse or neglect;**

(2) the child named in the petition has been a victim of a substantiated assessment of child abuse or neglect;".

Page 3, line 7, delete "(2)" and insert "**(3)**".

Page 3, line 8, delete "IC 31-34." and insert "**IC 31-34; and**

(4) the child has been involved in an informal adjustment under IC 31-34-8.".

Page 3, line 9, delete "subject of an investigation" and insert "**perpetrator of a substantiated assessment**".

Page 3, line 10, delete "forth:" and insert "**forth**".

Page 3, line 11, delete "(1)".

Page 3, line 11, delete "investigation occurred; and" and insert "**assessment occurred.**".

Page 3, run in lines 10 through 11.

Page 3, delete line 12.

Page 3, line 25, delete "or the child in need of services case".

Page 3, line 26, delete "answer" and insert "**provide a response under seal to**".

Page 3, line 34, delete "or the child".

Page 3, line 34, after "been" insert "**the perpetrator of a substantiated assessment of child abuse or neglect;**

(2) the child named in the petition has been a victim of a substantiated assessment of child abuse or neglect;".

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Page 3, delete line 35.

Page 3, line 36, delete "(2)" and insert "**(3)**".

Page 3, line 37, delete "IC 31-34." and insert "**IC 31-34; and**

(4) the child has been involved in an informal adjustment under IC 31-34-8.".

Page 3, line 38, delete "the subject of an investigation" and insert "**perpetrator of a substantiated assessment**".

Page 3, line 39, delete "forth:" and insert "**forth**".

Page 3, line 40, delete "(1)".

Page 3, line 40, delete "investigation occurred; and" and insert "**assessment occurred.**".

Page 3, run in lines 39 through 40.

Page 3, delete line 41.

Page 4, line 13, delete "answer" and insert "**provide a response under seal to**".

and when so amended that said bill do pass.

(Reference is to HB 1041 as introduced.)

KUBACKI, Chair

Committee Vote: yeas 11, nays 0.

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