



Reprinted
February 21, 2013

HOUSE BILL No. 1041

DIGEST OF HB 1041 (Updated February 20, 2013 2:11 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, a party to the proceeding shall inform the court if: (1) a party has been determined to be a perpetrator in a substantiated assessment of child abuse or neglect; or (2) the child named in the petition has been the subject of a substantiated report of child abuse and neglect, has been determined to be a child in need of services, or 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.
February 20, 2013, read second time, amended, ordered engrossed.

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HB 1041—LS 6412/DI 107+



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.

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:

1 SECTION 1. IC 29-3-2-7 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2013]: **Sec. 7. (a) If a person files a petition to establish or modify**
4 **guardianship of an individual who is less than eighteen (18) years**
5 **of age, any person who:**
6 (1) **is a party to the guardianship proceeding; and**
7 (2) **has knowledge that:**
8 (A) **a party to the guardianship proceeding has been**
9 **determined to be a perpetrator of a substantiated**
10 **assessment of child abuse or neglect;**
11 (B) **the child named in the petition has been the subject of**
12 **a substantiated report of child abuse or neglect;**
13 (C) **the child named in the petition has been determined to**
14 **be a child in need of services under IC 31-34; or**
15 (D) **the child named in the petition has been involved in an**
16 **informal adjustment under IC 31-34-8;**
17 **shall inform the court in writing that a party to the guardianship**

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1 proceeding is a person described in subdivision (2)(A) or the child
2 named in the petition is a child described in subdivision (2)(B),
3 (2)(C), or (2)(D).

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

11 SECTION 2. IC 31-14-13-12 IS ADDED TO THE INDIANA
12 CODE AS A NEW SECTION TO READ AS FOLLOWS
13 [EFFECTIVE JULY 1, 2013]: **Sec. 12. (a) If a person files a petition**
14 **to establish or modify the custody of a child, any person who:**

- 15 (1) is a party to the custody proceeding; and
- 16 (2) has knowledge that:
 - 17 (A) a party to the custody proceeding has been determined
 - 18 to be a perpetrator of a substantiated assessment of child
 - 19 abuse or neglect;
 - 20 (B) the child named in the petition has been the subject of
 - 21 a substantiated report of child abuse or neglect;
 - 22 (C) the child named in the petition has been determined to
 - 23 be a child in need of services under IC 31-34; or
 - 24 (D) the child named in the petition has been involved in an
 - 25 informal adjustment under IC 31-34-8;

26 shall submit to the court in writing under seal that a party to the
27 custody proceeding is a person described in subdivision (2)(A) or
28 the child named in the petition is a child described in subdivision
29 (2)(B), (2)(C), or (2)(D).

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

36 SECTION 3. IC 31-14-14-6 IS ADDED TO THE INDIANA CODE
37 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
38 1, 2013]: **Sec. 6. (a) If a person files a petition to establish or modify**
39 **parenting time, any person who:**

- 40 (1) is a party to the parenting time proceeding; and
- 41 (2) has knowledge that:
 - 42 (A) a party to the parenting time proceeding has been

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- 1 determined to be a perpetrator of a substantiated
- 2 assessment of child abuse or neglect;
- 3 (B) the child named in the petition has been the subject of
- 4 a substantiated report of child abuse or neglect;
- 5 (C) the child named in the petition has been determined to
- 6 be a child in need of services under IC 31-34; or
- 7 (D) the child named in the petition has been involved in an
- 8 informal adjustment under IC 31-34-8;

9 shall submit to the court in writing under seal that a party to the
 10 parenting time proceeding is a person described in subdivision
 11 (2)(A) or the child named in the petition is a child described in
 12 subdivision (2)(B), (2)(C), or (2)(D).

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

19 SECTION 4. IC 31-17-2-26 IS ADDED TO THE INDIANA CODE
 20 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 21 1, 2013]: Sec. 26. (a) If a person files a petition to establish or
 22 modify custody of a child, any person who:

- 23 (1) is a party to the custody proceeding; and
- 24 (2) has knowledge that:
 - 25 (A) a party to the custody proceeding has been determined
 - 26 to be a perpetrator of a substantiated assessment of child
 - 27 abuse or neglect;
 - 28 (B) the child named in the petition has been the subject of
 - 29 a substantiated report of child abuse or neglect;
 - 30 (C) the child named in the petition has been determined to
 - 31 be a child in need of services under IC 31-34; or
 - 32 (D) the child named in the petition has been involved in an
 - 33 informal adjustment under IC 31-34-8;

34 shall submit to the court in writing under seal that a party to the
 35 custody proceeding is a person described in subdivision (2)(A) or
 36 the child named in the petition is a child described in subdivision
 37 (2)(B), (2)(C), or (2)(D).

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

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the court requests the information.

SECTION 5. IC 31-17-4-11 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 11. (a) If a person files a petition to establish or modify parenting time, any person who:

- (1) is a party to the parenting time proceeding; and**
- (2) has knowledge that:**

(A) a party to the parenting time proceeding has been determined to be a perpetrator of a substantiated assessment of child abuse or neglect;

(B) the child named in the petition has been the subject of a substantiated report of child abuse or neglect;

(C) the child named in the petition has been determined to be a child in need of services under IC 31-34; or

(D) the child named in the petition has been involved in an informal adjustment under IC 31-34-8;

shall submit to the court in writing under seal that a party to the parenting time proceeding is a person described in subdivision (2)(A) or the child named in the petition is a child described in subdivision (2)(B), (2)(C), or (2)(D).

(b) A court reviewing a petition to modify parenting time of a child may request information regarding the department of child services case or assessment 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.

HOUSE MOTION

Mr. Speaker: I move that House Bill 1041 be amended to read as follows:

Page 1, line 3, delete "A person who files a petition to establish or" and insert "**If a person files a petition to establish or modify guardianship of an individual who is less than eighteen (18) years of age, any person who:**

(1) is a party to the guardianship proceeding; and

(2) has knowledge that:

(A) a party to the guardianship proceeding has been determined to be a perpetrator of a substantiated assessment of child abuse or neglect;

(B) the child named in the petition has been the subject of a substantiated report of child abuse or neglect;

(C) the child named in the petition has been determined to be a child in need of services under IC 31-34; or

(D) the child named in the petition has been involved in an informal adjustment under IC 31-34-8;

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shall inform the court in writing that a party to the guardianship proceeding is a person described in subdivision (2)(A) or the child named in the petition is a child described in subdivision (2)(B), (2)(C), or (2)(D)."

Page 1, delete lines 4 through 17.

Page 2, delete lines 1 through 9.

Page 2, line 10, delete "(d)" and insert "(b)".

Page 2, line 10, after "to" insert "establish or".

Page 2, line 18, delete "A person who files a" and insert "If a person files a petition to establish or modify the custody of a child, any person who:

(1) is a party to the custody proceeding; and

(2) has knowledge that:

(A) a party to the custody proceeding has been determined to be a perpetrator of a substantiated assessment of child abuse or neglect;

(B) the child named in the petition has been the subject of a substantiated report of child abuse or neglect;

(C) the child named in the petition has been determined to be a child in need of services under IC 31-34; or

(D) the child named in the petition has been involved in an informal adjustment under IC 31-34-8;

shall submit to the court in writing under seal that a party to the custody proceeding is a person described in subdivision (2)(A) or the child named in the petition is a child described in subdivision (2)(B), (2)(C), or (2)(D)."

Page 2, delete lines 19 through 41.

Page 2, line 42, delete "(d)" and insert "(b)".

Page 3, line 1, delete "or parenting time with a child".

Page 3, line 8, delete "A person who files a petition to establish or" and insert "If a person files a petition to establish or modify parenting time, any person who:

(1) is a party to the parenting time proceeding; and

(2) has knowledge that:

(A) a party to the parenting time proceeding has been determined to be a perpetrator of a substantiated assessment of child abuse or neglect;

(B) the child named in the petition has been the subject of a substantiated report of child abuse or neglect;

(C) the child named in the petition has been determined to be a child in need of services under IC 31-34; or

(D) the child named in the petition has been involved in an

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informal adjustment under IC 31-34-8;
shall submit to the court in writing under seal that a party to the parenting time proceeding is a person described in subdivision (2)(A) or the child named in the petition is a child described in subdivision (2)(B), (2)(C), or (2)(D)."

Page 3, delete lines 9 through 30.

Page 3, line 31, delete "(d)" and insert "(b)".

Page 3, line 39, delete "A person who files a petition to establish or" and insert **"If a person files a petition to establish or modify custody of a child, any person who:**

(1) is a party to the custody proceeding; and

(2) has knowledge that:

(A) a party to the custody proceeding has been determined to be a perpetrator of a substantiated assessment of child abuse or neglect;

(B) the child named in the petition has been the subject of a substantiated report of child abuse or neglect;

(C) the child named in the petition has been determined to be a child in need of services under IC 31-34; or

(D) the child named in the petition has been involved in an informal adjustment under IC 31-34-8;

shall submit to the court in writing under seal that a party to the custody proceeding is a person described in subdivision (2)(A) or the child named in the petition is a child described in subdivision (2)(B), (2)(C), or (2)(D)."

Page 3, delete lines 40 through 42.

Page 4, delete lines 1 through 20.

Page 4, line 21, delete "(d)" and insert "(b)".

Page 4, line 23, before "or" insert **"or assessment"**.

Page 4, line 23, delete "or the child in need of services case".

Page 4, after line 26, begin a new paragraph and insert:

"SECTION 5. IC 31-17-4-11 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 11. (a) If a person files a petition to establish or modify parenting time, any person who:

(1) is a party to the parenting time proceeding; and

(2) has knowledge that:

(A) a party to the parenting time proceeding has been determined to be a perpetrator of a substantiated assessment of child abuse or neglect;

(B) the child named in the petition has been the subject of a substantiated report of child abuse or neglect;

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(C) the child named in the petition has been determined to be a child in need of services under IC 31-34; or

(D) the child named in the petition has been involved in an informal adjustment under IC 31-34-8;

shall submit to the court in writing under seal that a party to the parenting time proceeding is a person described in subdivision (2)(A) or the child named in the petition is a child described in subdivision (2)(B), (2)(C), or (2)(D).

(b) A court reviewing a petition to modify parenting time of a child may request information regarding the department of child services case or assessment 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."

(Reference is to HB 1041 as printed February 15, 2013.)

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