



Reprinted
February 24, 2000

ENGROSSED

SENATE BILL No. 330

DIGEST OF SB 330 (Updated February 23, 2000 3:35 PM - DI 98)

Citations Affected: IC 31-9; IC 31-34; IC 31-35; IC 35-46.

Synopsis: Children. Allows an emergency medical services (EMS) provider to take custody of an abandoned infant under specified conditions. Provides that voluntarily leaving a child with an EMS provider is a defense to a child neglect prosecution. Requires a juvenile court hearing regarding an abandoned infant on the next business day after the infant is taken into custody. Makes other provisions relating to the emergency custody of an abandoned infant. Requires a county office of family and children (COFC) to provide a foster parent notice of certain hearings involving a CHINS by certified mail or face to face contact. Provides that the right to be heard in a proceeding involving a CHINS includes the right to submit a written statement to the court. Requires continuance of a hearing if the COFC does not provide documentation that the foster parent received notice of the hearing at least five business days before the hearing, unless the foster parent appears. Allows a foster parent, except a foster parent who has been the subject of a substantiated report of child abuse or neglect or convicted of certain felonies, to petition a court to request intervention as a party in a CHINS proceeding and allows the court to grant the petition if the court determines that intervention is in the child's best interests.

Effective: July 1, 2000.

Wolf, Nugent, Merritt, Miller

(HOUSE SPONSORS — KLINKER, DUNCAN)

January 10, 2000, read first time and referred to Committee on Health and Provider Services.

January 27, 2000, amended, reported favorably — Do Pass.

January 31, 2000, read second time, ordered engrossed.

February 1, 2000, engrossed.

February 7, 2000, read third time, passed. Yeas 48, nays 2.

HOUSE ACTION

February 10, 2000, read first time and referred to Committee on Human Affairs.

February 17, 2000, amended, reported — Do Pass.

February 21, 2000, read second time, ordered engrossed.

February 22, 2000, engrossed.

February 23, 2000, read third time, recommitted to Committee of One, amended; passed. Yeas 91, nays 5.

ES 330—LS 7001/DI 98+



C
O
P
Y

Reprinted
February 24, 2000

Second Regular Session 111th General Assembly (2000)

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 1999 General Assembly.

ENGROSSED SENATE BILL No. 330

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

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

- 1 SECTION 1. IC 31-9-2-0.5 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 0.5. "Abandoned
3 infant", for purposes of IC 31-34-21-5.6, means:
4 (1) a child who is less than twelve (12) months of age and whose
5 parent, guardian, or custodian ~~(†)~~ has knowingly or intentionally
6 left the child in:
7 (A) an environment that endangers the child's life or health; or
8 (B) a hospital or medical facility;
9 **and has no reasonable plan to assume the care, custody, and**
10 **control of the child; or**
11 **(2) a child who is, or who appears to be, not more than thirty**
12 **(30) days of age and whose parent:**
13 **(A) has knowingly or intentionally left the child with an**
14 **emergency medical services provider; and ~~(2)~~ has no**
15 **reasonable plan to assume the care, custody, and control of**
16 **(B) did not express an intent to return for the child.**
17 SECTION 2. IC 31-9-2-43.5 IS ADDED TO THE INDIANA CODE

ES 330—LS 7001/DI 98+



C
O
P
Y

1 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
2 1, 2000]: **Sec. 43.5. "Emergency medical services provider" has the
3 meaning set forth in IC 16-41-10-1.**

4 SECTION 3. IC 31-34-2.5 IS ADDED TO THE INDIANA CODE
5 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
6 JULY 1, 2000]:

7 **Chapter 2.5. Emergency Custody of Certain Abandoned
8 Children**

9 **Sec. 1. (a) An emergency medical services provider shall,
10 without a court order, take custody of a child who is, or who
11 appears to be, not more than thirty (30) days of age if:**

12 **(1) the child is voluntarily left with the provider by the child's
13 parent; and**

14 **(2) the parent does not express an intent to return for the
15 child.**

16 **(b) An emergency medical services provider who takes custody
17 of a child under this section shall perform any act necessary to
18 protect the child's physical health or safety.**

19 **Sec. 2. (a) Immediately after an emergency medical services
20 provider takes custody of a child under section 1 of this chapter,
21 the provider shall notify the local child protection service that the
22 provider has taken custody of the child.**

23 **(b) The local child protection service shall assume the care,
24 control, and custody of the child immediately after receiving notice
25 under subsection (a).**

26 **Sec. 3. A child for whom the local child protection service
27 assumes care, control, and custody under section 2 of this chapter
28 shall be treated as a child taken into custody without a court order,
29 except that efforts to locate the child's parents or reunify the
30 child's family are not necessary, if the court makes a finding to that
31 effect under IC 31-34-21-5.6(b)(5).**

32 **Sec. 4. Whenever a child is taken into custody without a court
33 order under this chapter, the attorney for the county office of
34 family and children shall, without unnecessary delay, request the
35 juvenile court to:**

36 **(1) authorize the filing of a petition alleging that the child is a
37 child in need of services;**

38 **(2) hold an initial hearing under IC 31-34-10 not later than
39 the next business day after the child is taken into custody; and**

40 **(3) appoint a guardian ad litem for the child.**

41 SECTION 4. IC 31-34-10-2 IS AMENDED TO READ AS
42 FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 2. (a) The juvenile**

C
O
P
Y



1 court shall hold an initial hearing on each petition.

2 (b) **Subject to section 2.5 of this chapter**, the juvenile court shall
3 set a time for the initial hearing. A summons shall be issued for the
4 following:

- 5 (1) The child.
6 (2) The child's parent, guardian, custodian, or guardian ad litem.
7 (3) Any other person necessary for the proceedings.

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

11 SECTION 5. IC 31-34-10-2.5 IS ADDED TO THE INDIANA
12 CODE AS A NEW SECTION TO READ AS FOLLOWS
13 [EFFECTIVE JULY 1, 2000]: **Sec. 2.5. (a) The juvenile court shall**
14 **hold the initial hearing on a petition arising from an emergency**
15 **medical services provider's taking custody of an infant under**
16 **IC 31-34-2.5 on the next business day after the emergency medical**
17 **services provider takes the infant into custody. If the court is**
18 **unavailable for a hearing on the next business day, the hearing**
19 **must be held as soon as the court becomes available. However, the**
20 **hearing must be held not later than the third business day after the**
21 **infant is taken into custody.**

22 (b) **The county office of family and children shall notify the**
23 **emergency medical services provider who has taken emergency**
24 **custody of an abandoned infant under IC 31-34-2.5 of the initial**
25 **hearing. The emergency medical services provider has the right to**
26 **be heard at the initial hearing.**

27 SECTION 6. IC 31-34-21-4 IS AMENDED TO READ AS
28 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 4. (a) At least ~~five (5)~~
29 **ten (10)** days before the periodic case review, including a case review
30 that is a permanency hearing under section 7 of this chapter, the county
31 office of family and children shall send notice of the review to each of
32 the following:

- 33 (1) The child's parent, guardian, or custodian.
34 ~~(2) The child's foster parent.~~
35 ~~(3)~~ (2) A prospective adoptive parent named in a petition for
36 adoption of the child filed under IC 31-19-2 if:
37 (A) each consent to adoption of the child that is required under
38 IC 31-19-9-1 has been executed in the form and manner
39 required by IC 31-19-9 and filed with the county office of
40 family and children;
41 (B) the court having jurisdiction in the adoption case has
42 determined under any applicable provision of IC 31-19-9 that



C
O
P
Y

- 1 consent to adoption is not required from a parent, guardian, or
 2 custodian; or
 3 (C) a petition to terminate the parent-child relationship
 4 between the child and any parent who has not executed a
 5 written consent to adoption under IC 31-19-9-2 has been filed
 6 under IC 31-35 and is pending.
- 7 ~~(4)~~ (3) Any other person who:
 8 (A) the county office of family and children has knowledge is
 9 currently providing care for the child; and
 10 (B) is not required to be licensed under IC 12-17.2 or
 11 IC 12-17.4 to provide care for the child.
- 12 ~~(5)~~ (4) Any other suitable relative or person who the county office
 13 knows has had a significant or caretaking relationship to the child.
 14 **(5) Any emergency medical services provider who has taken**
 15 **custody of an abandoned infant under IC 31-34-2.5.**
- 16 (b) **At least ten (10) days before the periodic case review,**
 17 **including a case review that is a permanency hearing under section**
 18 **7 of this chapter, the county office of family and children shall**
 19 **provide notice of the review to the child's foster parent by:**
 20 (1) **certified mail; or**
 21 (2) **face to face contact by the county office of family and**
 22 **children caseworker.**
- 23 (c) The court shall provide to a person described in subsection (a)
 24 or (b) an opportunity to be heard and to make any recommendations to
 25 the court in a periodic case review, including a permanency hearing
 26 under section 7 of this chapter. **The right to be heard and to make**
 27 **recommendations under this subsection includes the right of a**
 28 **person described in subsection (a) or (b) to submit a written**
 29 **statement to the court that, if served upon all parties to the child in**
 30 **need of services proceeding and the persons described in**
 31 **subsections (a) and (b), may be made a part of the court record.**
- 32 ~~(e)~~ (d) This section does not exempt the county office of family and
 33 children from sending a notice of the review to each party to the child
 34 in need of services proceeding.
- 35 (e) **The court shall continue the review if, at the time of the**
 36 **review, the county office of family and children has not provided**
 37 **the court with signed verification from the child's foster parent, as**
 38 **obtained through subsection (b), that the foster parent has been**
 39 **notified of the review at least five (5) business days before the**
 40 **review. However, the court is not required to continue the review**
 41 **if the child's foster parent appears for the review.**
- 42 SECTION 7. IC 31-34-21-4.5 IS ADDED TO THE INDIANA

C
O
P
Y

1 CODE AS A NEW SECTION TO READ AS FOLLOWS
 2 [EFFECTIVE JULY 1, 2000]: **Sec. 4.5. (a) Except as provided in**
 3 **subsection (b), a foster parent may petition the court to request**
 4 **intervention as a party to a proceeding described in this chapter.**

5 **(b) A foster parent who has been:**

6 **(1) the subject of a substantiated report of child abuse or**
 7 **neglect; or**

8 **(2) convicted of a felony listed in IC 12-17.4-4-11;**
 9 **may not petition the court to intervene under this section.**

10 **(c) A court may grant a petition filed under this section if the**
 11 **court determines that intervention of the petitioner is in the best**
 12 **interests of the child.**

13 SECTION 8. IC 31-34-21-5.6, AS AMENDED BY P.L.197-1999,
 14 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 15 JULY 1, 2000]: **Sec. 5.6. (a) A court may make a finding described in**
 16 **this section at any phase of a child in need of services proceeding.**

17 **(b) Reasonable efforts to reunify a child with the child's parent,**
 18 **guardian, or custodian or preserve a child's family as described in**
 19 **section 5.5 of this chapter are not required if the court finds any of the**
 20 **following:**

21 **(1) A parent, guardian, or custodian of a child who is a child in**
 22 **need of services has been convicted of:**

23 **(A) an offense described in IC 31-35-3-4(1)(B) or**
 24 **IC 31-35-3-4(1)(D) through ~~IC 31-35-3-4(J)~~**
 25 **IC 31-35-3-4(1)(J) against a victim who is:**

26 **(i) a child described in IC 31-35-3-4(2); or**
 27 **(ii) a parent of the child; or**

28 **(B) a comparable offense as described in clause (A) in any**
 29 **other state, territory, or country by a court of competent**
 30 **jurisdiction.**

31 **(2) A parent, guardian, or custodian of a child who is a child in**
 32 **need of services:**

33 **(A) has been convicted of:**

34 **(i) the murder (IC 35-42-1-1) or voluntary manslaughter**
 35 **(IC 35-42-1-3) of a victim who is a child described in**
 36 **IC 31-35-3-4(2)(B) or a parent of the child; or**

37 **(ii) a comparable offense described in item (i) in any other**
 38 **state, territory, or country; or**

39 **(B) has been convicted of:**

40 **(i) aiding, inducing, or causing another person;**

41 **(ii) attempting; or**

42 **(iii) conspiring with another person;**



C
O
P
Y

- 1 to commit an offense described in clause (A).
 2 (3) A parent, guardian, or custodian of a child who is a child in
 3 need of services has been convicted of:
 4 (A) battery (IC 35-42-2-1 (a)(4)) as a Class B felony;
 5 (B) battery (IC 35-42-2-1(a)(3)) as a Class C felony;
 6 (C) aggravated battery (IC 35-42-2-1.5);
 7 (D) criminal recklessness (IC 35-42-2-2(c)) as a Class C
 8 felony;
 9 (E) neglect of a dependent (IC 35-46-1-4) as a Class B felony;
 10 or
 11 (F) a comparable offense described in clauses (A) through (E)
 12 in another state, territory, or country;
 13 against a child described in IC 31-35-3-4(2)(B).
 14 (4) The parental rights of a parent with respect to a biological or
 15 adoptive sibling of a child who is a child in need of services have
 16 been involuntarily terminated by a court under:
 17 (A) IC 31-35-2 (involuntary termination involving a
 18 delinquent child or a child in need of services);
 19 (B) IC 31-35-3 (involuntary termination involving an
 20 individual convicted of a criminal offense); or
 21 (C) any comparable law described in clause (A) or (B) in any
 22 other state, territory, or country.
 23 (5) The child is an abandoned infant, provided that the court:
 24 (A) has appointed a guardian ad litem or court appointed
 25 special advocate for the child; and
 26 (B) after receiving a written report and recommendation from
 27 the guardian ad litem or court appointed special advocate, and
 28 after a hearing, finds that reasonable efforts to locate the
 29 child's parents or reunify the child's family would not be in the
 30 best interests of the child. **However, there is a rebuttable**
 31 **presumption that it is not in the best interests of the child**
 32 **to locate the child's parent or reunify the child's family if**
 33 **the child was left with an emergency medical services**
 34 **provider who took custody of the child under IC 31-34-2.5.**
 35 SECTION 9. IC 31-35-2-6.5, AS AMENDED BY P.L.200-1999,
 36 SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 37 JULY 1, 2000]: Sec. 6.5. (a) This section applies to hearings under this
 38 chapter relating to a child in need of services.
 39 (b) At least ~~five (5)~~ **ten (10)** days before a hearing on a petition or
 40 motion under this chapter:
 41 (1) the person or entity who filed the petition to terminate the
 42 parent-child relationship under section 4 of this chapter; or



- 1 (2) the person or entity who filed a motion to dismiss the petition
 2 to terminate the parent-child relationship under section 4.5(d) of
 3 this chapter;
 4 shall send notice of the review to the persons listed in ~~subsection~~
 5 **subsections (c) and (d).**
 6 (c) The following persons shall receive notice of a hearing on a
 7 petition or motion filed under this chapter:
 8 (1) The child's parent, guardian, or custodian.
 9 ~~(2) The child's foster parent.~~
 10 ~~(3)~~ **(2)** A prospective adoptive parent named in a petition for
 11 adoption of the child filed under IC 31-19-2 if:
 12 (A) each consent to adoption of the child that is required under
 13 IC 31-19-9-1 has been executed in the form and manner
 14 required by IC 31-19-9 and filed with the county office of
 15 family and children;
 16 (B) the court having jurisdiction in the adoption case has
 17 determined under an applicable provision of IC 31-19-9 that
 18 consent to adoption is not required from a parent, guardian, or
 19 custodian; or
 20 (C) a petition to terminate the parent-child relationship
 21 between the child and any parent who has not executed a
 22 written consent to adoption under IC 31-19-9-2, has been filed
 23 under IC 31-35 and is pending.
 24 ~~(4)~~ **(3)** Any other person who:
 25 (A) the county office of family and children has knowledge is
 26 currently providing care for the child; and
 27 (B) is not required to be licensed under IC 12-17.2 or
 28 IC 12-17.4 to provide care for the child.
 29 ~~(5)~~ **(4)** Any other suitable relative or person who the county office
 30 of family and children knows has had a significant or caretaking
 31 relationship to the child.
 32 **(5) Any emergency medical services provider who has taken**
 33 **custody of an abandoned infant under IC 31-34-2.5.**
 34 (6) Any other party to the child in need of services proceeding.
 35 (d) **At least ten (10) days before a hearing on a petition or**
 36 **motion under this chapter, the county office of family and children**
 37 **shall provide notice of the hearing to the child's foster parent by:**
 38 **(1) certified mail; or**
 39 **(2) face to face contact by the county office of family and**
 40 **children caseworker.**
 41 (e) The court shall provide to a person described in subsection (c)
 42 **or (d)** an opportunity to be heard and make recommendations to the

C
O
P
Y

1 court at the hearing. **The right to be heard and to make**
 2 **recommendations under this subsection includes the right of a**
 3 **person described in subsection (c) or (d) to submit a written**
 4 **statement to the court that, if served upon all parties to the child in**
 5 **need of services proceeding and the persons described in**
 6 **subsections (c) and (d), may be made a part of the court record.**

7 ~~(e)~~ **(f) The court shall continue the hearing if, at the time of the**
 8 **hearing, the county office of family and children has not provided**
 9 **the court with signed verification from the foster parent, as**
 10 **obtained through subsection (d), that the foster parent has been**
 11 **notified of the hearing at least five (5) business days before the**
 12 **hearing. However, the court is not required to continue the hearing**
 13 **if the child's foster parent appears for the hearing.**

14 **(g) A person described in subsection (c)(2) through (c)(5) or**
 15 **subsection (d) does not become a party to a proceeding under this**
 16 **chapter as the result of the person's right to notice and the opportunity**
 17 **to be heard under this section.**

18 SECTION 10. IC 35-46-1-4, AS AMENDED BY P.L.197-1999,
 19 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 20 JULY 1, 2000]: Sec. 4. (a) A person having the care of a dependent,
 21 whether assumed voluntarily or because of a legal obligation, who
 22 knowingly or intentionally:

- 23 (1) places the dependent in a situation that endangers the
- 24 dependent's life or health;
- 25 (2) abandons or cruelly confines the dependent;
- 26 (3) deprives the dependent of necessary support; or
- 27 (4) deprives the dependent of education as required by law;

28 commits neglect of a dependent, a Class D felony.

29 (b) However, the offense is:

- 30 (1) a Class C felony if it is committed under subsection (a)(1),
- 31 (a)(2), or (a)(3) and results in bodily injury;
- 32 (2) a Class B felony if it is committed under subsection (a)(1),
- 33 (a)(2), or (a)(3) and results in serious bodily injury; and
- 34 (3) a Class C felony if it is committed under subsection (a)(2) and
- 35 consists of cruel or unusual confinement or abandonment.

36 **(c) It is a defense to a prosecution based on an alleged act under**
 37 **this section that:**

- 38 (1) the accused person left a dependent child who was, at the
- 39 time the alleged act occurred, not more than thirty (30) days
- 40 of age with an emergency medical provider who took custody
- 41 of the child under IC 31-34-2.5 when:

- 42 (A) the prosecution is based solely on the alleged act of

C
O
P
Y



1 **leaving the child with the emergency medical services**
2 **provider; and**
3 **(B) the alleged act did not result in bodily injury or serious**
4 **bodily injury to the child; or**
5 **(2) the accused person,** in the legitimate practice of his religious
6 belief, provided treatment by spiritual means through prayer, in
7 lieu of medical care, to his dependent.
8 ~~(e)~~ **(d)** Except for property transferred or received:
9 (1) under a court order made in connection with a proceeding
10 under IC 31-15, IC 31-16, IC 31-17, or IC 31-35 (or IC 31-1-11.5
11 or IC 31-6-5 before their repeal); or
12 (2) under IC 35-46-1-9(b);
13 a person who transfers or receives any property in consideration for the
14 termination of the care, custody, or control of a person's dependent
15 child commits child selling, a Class D felony.

C
o
p
y



SENATE MOTION

Mr. President: I move that Senator Miller be added as coauthor of Senate Bill 330.

WOLF

C
o
p
y



COMMITTEE REPORT

Mr. President: The Senate Committee on Health and Provider Services, to which was referred Senate Bill No. 330, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 4, after "who" insert "**meets the following conditions:**".

Page 1, line 4, delete "has", begin a new line block indented and insert:

"(1) Has".

Page 1, delete lines 6 through 8, begin a new line double block indented and insert:

**"(A) the most recent twelve (12) consecutive months; or
(B) fifteen (15) months of the most recent twenty-two (22) months.**

(2) Has never been convicted in any state of a felony or misdemeanor that is related to the health or safety of children."

and when so amended that said bill do pass.

(Reference is to SB 330 as introduced.)

MILLER, Chairperson

Committee Vote: Yeas 8, Nays 0.

C
O
P
Y



SENATE MOTION

Mr. President: I move that Senator Clark be removed as coauthor of Engrossed Senate Bill 330.

CLARK

C
o
p
y



COMMITTEE REPORT

Mr. Speaker: Your Committee on Human Affairs, to which was referred Senate Bill 330, 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:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to SB 330 as printed January 28, 2000.)

SUMMERS, Chair

Committee Vote: yeas 10, nays 1.

C
o
p
y



HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 330 be recommitted to a Committee of One, its sponsor, with specific instructions to amend as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 31-9-2-0.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 0.5. "Abandoned infant", for purposes of IC 31-34-21-5.6, means:

(1) a child who is less than twelve (12) months of age and whose parent, guardian, or custodian ~~(1)~~ has knowingly or intentionally left the child in:

- (A) an environment that endangers the child's life or health; or
- (B) a hospital or medical facility;

and has no reasonable plan to assume the care, custody, and control of the child; or

(2) a child who is, or who appears to be, not more than thirty (30) days of age and whose parent:

- (A) has knowingly or intentionally left the child with an emergency medical services provider; and ~~(2)~~ has no reasonable plan to assume the care, custody, and control of**
- (B) did not express an intent to return for the child.**

SECTION 2. IC 31-9-2-43.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 43.5. "Emergency medical services provider" has the meaning set forth in IC 16-41-10-1.**

SECTION 3. IC 31-34-2.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]:

Chapter 2.5. Emergency Custody of Certain Abandoned Children

Sec. 1. (a) An emergency medical services provider shall, without a court order, take custody of a child who is, or who appears to be, not more than thirty (30) days of age if:

- (1) the child is voluntarily left with the provider by the child's parent; and**
- (2) the parent does not express an intent to return for the child.**

(b) An emergency medical services provider who takes custody of a child under this section shall perform any act necessary to protect the child's physical health or safety.

Sec. 2. (a) Immediately after an emergency medical services



C
O
P
Y

provider takes custody of a child under section 1 of this chapter, the provider shall notify the local child protection service that the provider has taken custody of the child.

(b) The local child protection service shall assume the care, control, and custody of the child immediately after receiving notice under subsection (a).

Sec. 3. A child for whom the local child protection service assumes care, control, and custody under section 2 of this chapter shall be treated as a child taken into custody without a court order, except that efforts to locate the child's parents or reunify the child's family are not necessary, if the court makes a finding to that effect under IC 31-34-21-5.6(b)(5).

Sec. 4. Whenever a child is taken into custody without a court order under this chapter, the attorney for the county office of family and children shall, without unnecessary delay, request the juvenile court to:

- (1) authorize the filing of a petition alleging that the child is a child in need of services;
- (2) hold an initial hearing under IC 31-34-10 not later than the next business day after the child is taken into custody; and
- (3) appoint a guardian ad litem for the child.

SECTION 4. IC 31-34-10-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 2. (a) The juvenile court shall hold an initial hearing on each petition.

(b) **Subject to section 2.5 of this chapter**, 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, or guardian ad litem.
- (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.

SECTION 5. IC 31-34-10-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 2.5.** (a) **The juvenile court shall hold the initial hearing on a petition arising from an emergency medical services provider's taking custody of an infant under IC 31-34-2.5 on the next business day after the emergency medical services provider takes the infant into custody. If the court is unavailable for a hearing on the next business day, the hearing must be held as soon as the court becomes available. However, the**



C
O
P
Y

hearing must be held not later than the third business day after the infant is taken into custody.

(b) The county office of family and children shall notify the emergency medical services provider who has taken emergency custody of an abandoned infant under IC 31-34-2.5 of the initial hearing. The emergency medical services provider has the right to be heard at the initial hearing."

Page 1, strike line 8.

Page 1, line 9, strike "(3)" and insert "(2)".

Page 2, line 6, strike "(4)" and insert "(3)".

Page 2, line 11, strike "(5)" and insert "(4)".

Page 2, between lines 12 and 13, begin a new line block indented and insert:

"(5) Any emergency medical services provider who has taken custody of an abandoned infant under IC 31-34-2.5."

Page 2, line 13, delete "The" and insert "At least ten (10) days before the periodic case review, including a case review that is a permanency hearing under section 7 of this chapter, the".

Page 2, line 14, delete "persons listed in subsection (a)" and insert "child's foster parent".

Page 2, line 18, after "(a)" insert "or (b)".

Page 2, line 23, after "(a)" insert "or (b)".

Page 2, line 25, delete "subsection" and insert "subsections".

Page 2, line 25, after "(a)" insert "and (b)".

Page 2, line 32, delete "persons listed in" and insert "child's foster parent".

Page 2, line 33, delete "subsection (a)".

Page 2, line 33, delete "persons" and insert "foster parent has".

Page 2, line 34, delete "have".

Page 2, line 36, delete "all the persons listed under subsection (a) appear" and insert "the child's foster parent appears".

Page 3, between lines 8 and 9, begin a new paragraph and insert:

"SECTION 6. IC 31-34-21-5.6, AS AMENDED BY P.L. 197-1999, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 5.6. (a) A court may make a finding described in this section at any phase of a child in need of services proceeding.

(b) Reasonable efforts to reunify a child with the child's parent, guardian, or custodian or preserve a child's family as described in section 5.5 of this chapter are not required if the court finds any of the following:

(1) A parent, guardian, or custodian of a child who is a child in need of services has been convicted of:

C
O
P
Y



- (A) an offense described in IC 31-35-3-4(1)(B) or IC 31-35-3-4(1)(D) through ~~IC 31-35-3-4(J)~~ **IC 31-35-3-4(1)(J)** against a victim who is:
- (i) a child described in IC 31-35-3-4(2); or
 - (ii) a parent of the child; or
- (B) a comparable offense as described in clause (A) in any other state, territory, or country by a court of competent jurisdiction.
- (2) A parent, guardian, or custodian of a child who is a child in need of services:
- (A) has been convicted of:
 - (i) the murder (IC 35-42-1-1) or voluntary manslaughter (IC 35-42-1-3) of a victim who is a child described in IC 31-35-3-4(2)(B) or a parent of the child; or
 - (ii) a comparable offense described in item (i) in any other state, territory, or country; or
 - (B) has been convicted of:
 - (i) aiding, inducing, or causing another person;
 - (ii) attempting; or
 - (iii) conspiring with another person;
 to commit an offense described in clause (A).
- (3) A parent, guardian, or custodian of a child who is a child in need of services has been convicted of:
- (A) battery (IC 35-42-2-1 (a)(4)) as a Class B felony;
 - (B) battery (IC 35-42-2-1(a)(3)) as a Class C felony;
 - (C) aggravated battery (IC 35-42-2-1.5);
 - (D) criminal recklessness (IC 35-42-2-2(c)) as a Class C felony;
 - (E) neglect of a dependent (IC 35-46-1-4) as a Class B felony;
- or
- (F) a comparable offense described in clauses (A) through (E) in another state, territory, or country;
- against a child described in IC 31-35-3-4(2)(B).
- (4) The parental rights of a parent with respect to a biological or adoptive sibling of a child who is a child in need of services have been involuntarily terminated by a court under:
- (A) IC 31-35-2 (involuntary termination involving a delinquent child or a child in need of services);
 - (B) IC 31-35-3 (involuntary termination involving an individual convicted of a criminal offense); or
 - (C) any comparable law described in clause (A) or (B) in any other state, territory, or country.

C
O
P
Y

- (5) The child is an abandoned infant, provided that the court:
- (A) has appointed a guardian ad litem or court appointed special advocate for the child; and
- (B) after receiving a written report and recommendation from the guardian ad litem or court appointed special advocate, and after a hearing, finds that reasonable efforts to locate the child's parents or reunify the child's family would not be in the best interests of the child. **However, there is a rebuttable presumption that it is not in the best interests of the child to locate the child's parent or reunify the child's family if the child was left with an emergency medical services provider who took custody of the child under IC 31-34-2.5."**

Page 3, line 20, strike "subsection" and insert "**subsections**".

Page 3, line 20, delete "." and insert "**and (d)**".

Page 3, strike line 24.

Page 3, line 25, strike "(3)" and insert "**(2)**".

Page 3, line 39, strike "(4)" and insert "**(3)**".

Page 4, line 2, strike "(5)" and insert "**(4)**".

Page 4, between lines 4 and 5, begin a new line block indented and insert:

"(5) Any emergency medical services provider who has taken custody of an abandoned infant under IC 31-34-2.5."

Page 4, line 6, delete "The" and insert "**At least ten (10) days before a hearing on a petition or motion under this chapter, the**".

Page 4, line 7, delete "persons listed in subsection (c)" and insert "**child's foster parent**".

Page 4, line 11, after "(c)" insert "**or (d)**".

Page 4, line 15, after "(c)" insert "**or (d)**".

Page 4, line 17, delete "subsection" and insert "**subsections**".

Page 4, line 17, after "(c)" insert "**and (d)**".

Page 4, line 21, delete "persons listed in" and insert "**foster parent**".

Page 4, line 22, delete "subsection (c)".

Page 4, line 22, delete "persons" and insert "**foster parent has**".

Page 4, line 23, delete "have".

Page 4, line 25, delete "all the persons listed under subsection (c) appear" and insert "**the child's foster parent appears**".

Page 4, line 27, after "(c)(5)" insert "**or subsection (d)**".

Page 4, after line 30, begin a new paragraph and insert:

"SECTION 10. IC 35-46-1-4, AS AMENDED BY P.L.197-1999, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 4. (a) A person having the care of a dependent,

C
O
P
Y



whether assumed voluntarily or because of a legal obligation, who knowingly or intentionally:

- (1) places the dependent in a situation that endangers the dependent's life or health;
 - (2) abandons or cruelly confines the dependent;
 - (3) deprives the dependent of necessary support; or
 - (4) deprives the dependent of education as required by law;
- commits neglect of a dependent, a Class D felony.

(b) However, the offense is:

- (1) a Class C felony if it is committed under subsection (a)(1), (a)(2), or (a)(3) and results in bodily injury;
- (2) a Class B felony if it is committed under subsection (a)(1), (a)(2), or (a)(3) and results in serious bodily injury; and
- (3) a Class C felony if it is committed under subsection (a)(2) and consists of cruel or unusual confinement or abandonment.

(c) It is a defense to a prosecution based on an alleged act under this section that:

(1) the accused person left a dependent child who was, at the time the alleged act occurred, not more than thirty (30) days of age with an emergency medical provider who took custody of the child under IC 31-34-2.5 when:

(A) the prosecution is based solely on the alleged act of leaving the child with the emergency medical services provider; and

(B) the alleged act did not result in bodily injury or serious bodily injury to the child; or

(2) the accused person, in the legitimate practice of his religious belief, provided treatment by spiritual means through prayer, in lieu of medical care, to his dependent.

(d) Except for property transferred or received:

- (1) under a court order made in connection with a proceeding under IC 31-15, IC 31-16, IC 31-17, or IC 31-35 (or IC 31-1-11.5 or IC 31-6-5 before their repeal); or
- (2) under IC 35-46-1-9(b);

a person who transfers or receives any property in consideration for the termination of the care, custody, or control of a person's dependent child commits child selling, a Class D felony."

Renumber all SECTIONS consecutively.

(Reference is to ESB 330 as printed February 18, 2000.)

KLINKER

COPY



COMMITTEE REPORT

Mr. Speaker: Your Committee of One, to which was referred Engrossed Senate Bill 330, begs leave to report that said bill has been amended as directed.

KLINKER

C
o
p
y

