

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.

SENATE ENROLLED ACT No. 330

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 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 (~~†~~) 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

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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 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.**

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(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 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.

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

(1) The child's parent, guardian, or custodian.

~~(2) The child's foster parent.~~

~~(3)~~ **(2)** A prospective adoptive parent named in a petition for adoption of the child filed under IC 31-19-2 if:

(A) each consent to adoption of the child that is required under IC 31-19-9-1 has been executed in the form and manner required by IC 31-19-9 and filed with the county office of family and children;

(B) the court having jurisdiction in the adoption case has determined under any applicable provision of IC 31-19-9 that consent to adoption is not required from a parent, guardian, or custodian; or

(C) a petition to terminate the parent-child relationship between the child and any parent who has not executed a written consent to adoption under IC 31-19-9-2 has been filed

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under IC 31-35 and is pending.

~~(4)~~ **(3)** Any other person who:

(A) the county office of family and children has knowledge is currently providing care for the child; and

(B) is not required to be licensed under IC 12-17.2 or IC 12-17.4 to provide care for the child.

~~(5)~~ **(4)** Any other suitable relative or person who the county office knows has had a significant or caretaking relationship to the child.

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

(b) 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 county office of family and children shall provide notice of the review to the child's foster parent by:

(1) certified mail; or

(2) face to face contact by the county office of family and children caseworker.

(c) The court shall provide to a person described in subsection (a) or (b) an opportunity to be heard and to make any recommendations to the court in a periodic case review, including a permanency hearing under section 7 of this chapter. The right to be heard and to make recommendations under this subsection includes the right of a person described in subsection (a) or (b) to submit a written statement to the court that, if served upon all parties to the child in need of services proceeding and the persons described in subsections (a) and (b), may be made a part of the court record.

~~(d)~~ **(d)** This section does not exempt the county office of family and children from sending a notice of the review to each party to the child in need of services proceeding.

(e) The court shall continue the review if, at the time of the review, the county office of family and children has not provided the court with signed verification from the child's foster parent, as obtained through subsection (b), that the foster parent has been notified of the review at least five (5) business days before the review. However, the court is not required to continue the review if the child's foster parent appears for the review.

SECTION 7. IC 31-34-21-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 4.5. (a) Except as provided in subsection (b), a foster parent may petition the court to request intervention as a party to a proceeding described in this chapter.**

(b) A foster parent who has been:

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- (1) the subject of a substantiated report of child abuse or neglect; or**
 - (2) convicted of a felony listed in IC 12-17.4-4-11;**
- may not petition the court to intervene under this section.**

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

SECTION 8. 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:

(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;

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- (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.

- (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.**

SECTION 9. IC 31-35-2-6.5, AS AMENDED BY P.L.200-1999, SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 6.5. (a) This section applies to hearings under this chapter relating to a child in need of services.

(b) At least ~~five (5)~~ **ten (10)** days before a hearing on a petition or motion under this chapter:

- (1) the person or entity who filed the petition to terminate the parent-child relationship under section 4 of this chapter; or
- (2) the person or entity who filed a motion to dismiss the petition to terminate the parent-child relationship under section 4.5(d) of this chapter;

shall send notice of the review to the persons listed in ~~subsection~~ **subsections (c) and (d).**

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(c) The following persons shall receive notice of a hearing on a petition or motion filed under this chapter:

(1) The child's parent, guardian, or custodian.

~~(2) The child's foster parent.~~

~~(3)~~ **(2)** A prospective adoptive parent named in a petition for adoption of the child filed under IC 31-19-2 if:

(A) each consent to adoption of the child that is required under IC 31-19-9-1 has been executed in the form and manner required by IC 31-19-9 and filed with the county office of family and children;

(B) the court having jurisdiction in the adoption case has determined under an applicable provision of IC 31-19-9 that consent to adoption is not required from a parent, guardian, or custodian; or

(C) a petition to terminate the parent-child relationship between the child and any parent who has not executed a written consent to adoption under IC 31-19-9-2, has been filed under IC 31-35 and is pending.

~~(4)~~ **(3)** Any other person who:

(A) the county office of family and children has knowledge is currently providing care for the child; and

(B) is not required to be licensed under IC 12-17.2 or IC 12-17.4 to provide care for the child.

~~(5)~~ **(4)** Any other suitable relative or person who the county office of family and children knows has had a significant or caretaking relationship to the child.

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

(6) Any other party to the child in need of services proceeding.

(d) At least ten (10) days before a hearing on a petition or motion under this chapter, the county office of family and children shall provide notice of the hearing to the child's foster parent by:

(1) certified mail; or

(2) face to face contact by the county office of family and children caseworker.

(e) The court shall provide to a person described in subsection (c) or (d) an opportunity to be heard and make recommendations to the court at the hearing. The right to be heard and to make recommendations under this subsection includes the right of a person described in subsection (c) or (d) to submit a written statement to the court that, if served upon all parties to the child in need of services proceeding and the persons described in

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subsections (c) and (d), may be made a part of the court record.

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

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

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, 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**



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belief, provided treatment by spiritual means through prayer, in lieu of medical care, to his dependent.

~~(c)~~ (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.

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President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Approved: _____

Governor of the State of Indiana

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