

COMMITTEE REPORT

MR. PRESIDENT:

The Senate Committee on Judiciary, to which was referred Senate Bill No. 569, 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:

- 1 Page 1, delete lines 1 through 17, begin a new paragraph and insert:
- 2 SECTION 1. IC 31-14-1.5 IS ADDED TO THE INDIANA CODE
- 3 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
- 4 UPON PASSAGE]:
- 5 **Chapter 1.5. Security to Secure Child Support, Custody, and**
- 6 **Visitation Rights".**
- 7 Page 2, delete lines 1 through 6.
- 8 Page 2, line 7, delete "(d)" and insert "**Sec. 1.**".
- 9 Page 2, line 7, delete "or surety".
- 10 Page 2, line 7, delete "chapter" and insert "**article to secure the**
- 11 **obligation of child support, enforcement of a custody order, or**
- 12 **enforcement of a visitation order".**
- 13 Page 2, line 8, after ";" insert "**and**".
- 14 Page 2, line 11, delete "; and" and insert ".".
- 15 Page 2, delete line 12, begin a new paragraph and insert:
- 16 "**Sec. 2. A bond described in section 1 of this chapter may be**
- 17 **prepared in substantially the following form:**".
- 18 Page 4, line 5, delete "(e) The" and insert "**Sec. 3. Upon forfeiture,**
- 19 **the**".
- 20 Page 4, line 5, after "of" insert "**the security,**".

1 Page 4, line 5, delete "or surety forfeited under this section" and
 2 insert "**, or other guarantee ordered to secure the obligation of child**
 3 **support, enforcement of a custody order, or enforcement of a**
 4 **visitation order under this article**".

5 Page 4, line 10, delete ";" and insert "**, if the security, bond, or**
 6 **guarantee covers custody or visitation, or both;**".

7 Page 4, line 13, delete "(f) The" and insert "**Sec. 4. Upon forfeiture,**
 8 **the**".

9 Page 4, line 13, after "of" insert "**security,**".

10 Page 4, line 13, delete "or surety forfeited under this section" and
 11 insert "**, or other guarantee ordered to secure the obligation of child**
 12 **support, enforcement of a custody order, or enforcement of a**
 13 **visitation order under this article**".

14 Page 4, line 14, delete "subsection (e)" and insert "**section 3 of this**
 15 **chapter**".

16 Page 4, line 15, delete "placed in trust to provide for:" and insert
 17 "**applied toward:**".

18 Page 4, line 17, delete "upon" and insert ".".

19 Page 4, delete lines 18 through 42, begin a new paragraph and
 20 insert:

21 "SECTION 2. IC 31-14-11-7 IS AMENDED TO READ AS
 22 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. The court may
 23 require that the parent obligated to make support payments provide
 24 appropriate in:

25 (1) a support order; or

26 (2) modification of a support order;

27 for the security, bond, or other guarantee that is satisfactory to ensure
 28 that the parent will fulfill the parent's court to secure the obligation to
 29 make support payments.

30 SECTION 3. IC 31-14-13-6.5 IS ADDED TO THE INDIANA
 31 CODE AS A NEW SECTION TO READ AS FOLLOWS
 32 [EFFECTIVE UPON PASSAGE]: Sec. 6.5. The court may provide
 33 in:

34 (1) a custody order; or

35 (2) a modification of a custody order;

36 for the security, bond, or other guarantee that is satisfactory to the
 37 court to secure enforcement of the custody order.

38 SECTION 4. IC 31-14-13-6.7 IS ADDED TO THE INDIANA

1 CODE AS A NEW SECTION TO READ AS FOLLOWS
 2 [EFFECTIVE UPON PASSAGE]: **Sec. 6.7. The court shall consider**
 3 **requiring security, a bond or another guarantee under section 6.5**
 4 **of this chapter if the court determines that there is a reasonable**
 5 **likelihood from the totality of the evidence that one (1) or more**
 6 **parties may commit a violation of IC 35-42-3-4 (interference with**
 7 **custody). In making a determination under this section, the court**
 8 **may consider the following:**

9 (1) **Whether a party has previously taken a child out of**
 10 **Indiana or another state in violation of a custody or visitation**
 11 **order.**

12 (2) **Whether a party has previously threatened to take a child**
 13 **out of Indiana or another state in violation of a custody or**
 14 **visitation order.**

15 (3) **Whether a party has strong ties to Indiana.**

16 (4) **Whether a party is a citizen of another country and has**
 17 **strong emotional or cultural ties to the other county in which**
 18 **the person is a citizen.**

19 (5) **Whether a party has friends or family living outside**
 20 **Indiana.**

21 (6) **Whether a party does not have a financial reason to stay**
 22 **in Indiana, such as whether the party is unemployed, able to**
 23 **work anywhere, or is financially independent.**

24 (7) **Whether a party has engaged in planning that would**
 25 **facilitate removal from Indiana, such as quitting a job, selling**
 26 **the party's primary residence, terminating a lease, closing an**
 27 **account, liquidating other assets, hiding or destroying**
 28 **documents, applying for a passport, applying for a birth**
 29 **certificate, or applying for school or medical records.**

30 (8) **Whether a party has a history of marital instability, a lack**
 31 **of parental cooperation, domestic violence, or child abuse.**

32 (9) **Whether a party has a criminal record.**

33 SECTION 5. IC 31-14-14-2.5 IS ADDED TO THE INDIANA
 34 CODE AS A NEW SECTION TO READ AS FOLLOWS
 35 [EFFECTIVE UPON PASSAGE]: **Sec. 2.5. The court may provide**
 36 **in:**

37 (1) **a visitation order; or**

38 (2) **a modification of a visitation order;**

1 **for the security, bond, or other guarantee that is satisfactory to**
2 **secure enforcement of the visitation order.**

3 SECTION 6. IC 31-14-15-3 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. **(a) This section**
5 **does not apply to an order under IC 31-14-11-7, IC 31-14-13-6.5,**
6 **or IC 31-14-14-2.5.**

7 **(b)** A court may not require an applicant for a temporary restraining
8 order or an injunction under this chapter (or IC 31-6-6.1-12.1 before its
9 repeal) to give security.

10 SECTION 7. IC 31-14-16-2 IS AMENDED TO READ AS
11 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. **(a) This section**
12 **does not apply to an order under IC 31-14-11-7, IC 31-14-13-6.5,**
13 **or , IC 31-14-14-2.5.**

14 **(b)** A court may not require the moving party under this chapter to
15 give security.

16 SECTION 8. IC 31-16-3.5 IS ADDED TO THE INDIANA CODE
17 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
18 UPON PASSAGE]:

19 **Chapter 3.5. Security to Secure Child Support**

20 **Sec. 1. A bond required under this article to secure the**
21 **obligation of child support must:**

22 **(1) be in writing; and**

23 **(2) be secured by:**

24 **(A) at least one (1) resident freehold surety; or**

25 **(B) a commercial insurance company.**

26 **Sec. 2. A bond described in section 1 of this chapter may be**
27 **prepared in substantially the following form:**

28 STATE OF INDIANA)

29) SS:

30 COUNTY OF _____)

31)

32)

33 **IN THE MATTER OF:**

34)

35)

36 **Name of Parent (As the Principal)**

37)

38 **Name of Parent (As the Obligee)**

1)
 2)
 3 **CHILD:**
 4)
 5 **Name of Child**
 6)

7 **KNOW ALL MEN BY THESE PRESENTS, that we _____,**
 8 **as Principal, and _____, as Surety, are held and firmly bound unto**
 9 **_____, as Obligee, in the penal sum of ____ Dollars (\$____), for the**
 10 **payment of which well and truly to be made we hereby bind**
 11 **ourselves and our heirs, administrators, successors, and assigns,**
 12 **jointly and severally, firmly by these presents.**

13 **WHEREAS, an Order was duly made and entered by the above**
 14 **Court in the State of Indiana, County of ____, dated ____, defining**
 15 **custody, visitation, and support rights regarding the named**
 16 **children.**

17 **NOW THEREFORE, the conditions of this obligation are such**
 18 **that:**

- 19 **1. No right of action on this bond shall be granted for the**
 20 **use or benefit of any individual, partnership,**
 21 **corporation, or other entity, other than the named**
 22 **Obligee.**
- 23 **2. It is agreed that neither this bond nor the obligation of**
 24 **this bond, nor any interest in this bond, may be assigned**
 25 **without the prior express written consent of the Surety.**
- 26 **3. Payment under this bond shall be conditioned upon the**
 27 **Obligee's, or the representative of the Obligee's filing a**
 28 **motion with the court seeking a declaration of forfeiture**
 29 **of the bond and the Court's finding and entry of a final**
 30 **judgment ordering the Principal and Surety to make**
 31 **such payment. A certified copy of the filing shall be**
 32 **provided to the Surety at its address of record. The**
 33 **Surety shall make payment within thirty (30) days of**
 34 **receiving notification of the final judgment directly to a**
 35 **Trustee appointed by the Court who shall administer the**
 36 **funds in a fiduciary capacity.**
- 37 **4. The Surety shall not be liable hereunder for any amount**
 38 **larger than the face amount of this bond.**

- 1 **5. This bond and the obligation hereunder shall terminate**
- 2 **and be of no further effect if the Court order requiring**
- 3 **it is modified in any way without the Surety's consent,**
- 4 **expires, or this cause is removed to another jurisdiction.**
- 5 **6. The Surety may file a motion with the Court for**
- 6 **discharge of this bond and its obligation hereunder for**
- 7 **any good cause. Good cause includes, but is not limited**
- 8 **to, misrepresentation or fraud in the initial application**
- 9 **for this bond, nonpayment of premium, loss of collateral,**
- 10 **or resignation of the Indemnitor. The Surety shall give**
- 11 **notice of any such motion to the Obligee.**

12 **NOW THEREFORE, if the Principal faithfully complies with**
 13 **the requirements and conditions of the Court Order within the**
 14 **limitations and parameters set forth therein, then this Obligation**
 15 **shall be void, otherwise it shall remain in full force and effect.**

16 **In witness whereof, each party to this bond has caused it to be**
 17 **executed at the place and on the date indicated below.**

18 **Signed, sealed and dated on this ____ day of ____, 20__.**

19 **Principal: Surety**

20 _____

21 **(Name and address of Principal)**

22 **(Name and address of Surety)**

23 _____

24 **(Signature of Principal)**

25 **(Countersigned by attorney-in-fact)**

26 **(Surety seal)**

27 **Witness:**

28 **Sec. 3. Upon forfeiture, the proceeds of security, a bond , or other**
 29 **guarantee ordered to secure the obligation of child support,**
 30 **enforcement of a custody order, or enforcement of a visitation**
 31 **order under this article may only be used to:**

32 **(1) reimburse the nonviolating party for actual costs or**
 33 **damages incurred in upholding the court's order;**

34 **(2) locate and return the child to the residence as set forth in**
 35 **the court's order, if the security, bond, or guarantee covers**
 36 **custody or visitation, or both; or**

37 **(3) reimburse reasonable fees and court costs to the court**
 38 **appointed trustee.**

1 **Sec. 4. The proceeds of the security, bond , or other guarantee**
 2 **ordered to secure the obligation of child support ordered under**
 3 **this article that are not applied to the expenses described in section**
 4 **3 of this chapter must be applied toward:**

5 **(1) the child's higher education; or**

6 **(2) the support and maintenance of the child.**

7 SECTION 9. IC 31-16-8-3 IS ADDED TO THE INDIANA CODE
 8 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE
 9 UPON PASSAGE]: **Sec. 3. The court may provide in a modification**
 10 **of a support order for the security, bond, or other guarantee that**
 11 **is satisfactory to the court to secure the obligation to make support**
 12 **payments.**

13 SECTION 10. IC 31-17-1.5 IS ADDED TO THE INDIANA CODE
 14 AS A **NEW CHAPTER** TO READ AS FOLLOWS [EFFECTIVE
 15 UPON PASSAGE]:

16 **Chapter 3.5. Security to Secure Custody and Visitation Orders".**

17 Page 5, delete lines 1 through 5.

18 Page 5, line 6, delete "(d)" and insert "**Sec. 1.**".

19 Page 5, line 6, delete " or surety".

20 Page 5, line 6, delete "chapter" and insert "**article to secure**
 21 **enforcement of a custody order or visitation order"**.

22 Page 5, line 7, after ";" insert "**and**".

23 Page 5, line 10, delete "; and" and insert ".".

24 Page 5, delete line 11, begin a new paragraph and insert:

25 **"Sec. 2. A bond described in section 1 of this chapter may be**
 26 **prepared in substantially the following form:"**.

27 Page 7, line 5, delete "(e) The" and insert "**Sec. 3. Upon forfeiture,**
 28 **the**".

29 Page 7, line 5, after "of" insert "**security,**".

30 Page 7, line 5, delete "or surety forfeited under this section" and
 31 insert "**, or other guarantee ordered to secure enforcement of a**
 32 **custody order or visitation order under this article"**.

33 Page 7, line 13, delete "(f) The" and insert "**Sec. 4. Upon forfeiture,**
 34 **the**".

35 Page 7, line 13, after "of" insert "**the security,**".

36 Page 7, line 13, delete "or surety forfeited under this section" and
 37 insert "**, or other guarantee ordered to secure enforcement of a**
 38 **custody order or visitation order under this article"**.

1 Page 7, line 14, delete "subsection (e)" and insert "**section 3 of this**
2 **chapter**".

3 Page 7, line 15, delete "placed in trust to provide for:" and insert
4 "**applied toward:**".

5 Page 7, line 17, delete "upon" and insert ".".

6 Page 7, delete lines 18 through 22, begin a new paragraph and insert:
7 "SECTION 11. IC 31-17-2-21.5 IS ADDED TO THE INDIANA
8 CODE AS A NEW SECTION TO READ AS FOLLOWS
9 [EFFECTIVE UPON PASSAGE]: **Sec. 21.5. The court may provide**
10 **in:**

11 (1) a custody order; or

12 (2) a modification to a custody order;

13 **for the security, bond, or other guarantee that is satisfactory to the**
14 **court to secure enforcement of the custody order.**

15 SECTION 12. IC 31-17-2-21.7 IS ADDED TO THE INDIANA
16 CODE AS A NEW SECTION TO READ AS FOLLOWS
17 [EFFECTIVE UPON PASSAGE]: **Sec. 21.7. The court shall consider**
18 **requiring security, a bond or another guarantee under section 21.5**
19 **of this chapter if the court determines that there is a reasonable**
20 **likelihood from the totality of the evidence that one (1) or more**
21 **parties may commit a violation of IC 35-42-3-4 (interference with**
22 **custody). In making a determination under this section, the court**
23 **may consider the following:**

24 (1) Whether a party has previously taken a child out of Indiana
25 or another state in violation of a custody or visitation order.

26 (2) Whether a party has previously threatened to take a child
27 out of Indiana or another state in violation of a custody or
28 visitation order.

29 (3) Whether a party has strong ties to Indiana.

30 (4) Whether a party is a citizen of another country and has
31 strong emotional or cultural ties to the other county in which
32 the person is a citizen.

33 (5) Whether a party has friends or family living outside
34 Indiana.

35 (6) Whether a party has not financial reason to stay in Indiana,
36 such as whether the party is unemployed, able to work
37 anywhere, or is financially independent.

38 (7) Whether a party has engaged in planning that would

1 facilitate removal from Indiana, such as quitting a job, selling
2 the party's primary residence, terminating a lease, closing an
3 account, liquidating other assets, hiding or destroying
4 documents, applying for a passport, applying for a birth
5 certificate, or applying for school or medical records.

6 (8) Whether a party has a history of marital instability, a lack
7 of parental cooperation, domestic violence, or child abuse.

8 (9) Whether a party has a criminal record.

9 SECTION 13. IC 31-17-4-2.5 IS ADDED TO THE INDIANA CODE
10 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
11 UPON PASSAGE]: Sec. 2.5. The court may provide in:

12 (1) a visitation order; or

13 (2) a modification to a visitation order;

14 for the security, bond, or other guarantee that is satisfactory to the
15 court to secure enforcement of the provisions of the visitation
16 order.

17 SECTION 14. IC 31-17-4-7 IS AMENDED TO READ AS
18 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) This section
19 does not apply to an order under IC 31-17-4-2.5.

20 (b) A court may not require an applicant for a temporary restraining
21 order or an injunction under section 4 of this chapter (or
22 IC 31-1-11.5-26 before its repeal) to give security."

23 Renumber all SECTIONS consecutively.

(Reference is to SB 569 as introduced.)

and when so amended that said bill do pass.

Committee Vote: Yeas 8, Nays 0.

Bray

Chairperson