



February 9, 2005

HOUSE BILL No. 1197

DIGEST OF HB 1197 (Updated February 2, 2005 5:23 pm - DI 107)

Citations Affected: IC 31-19; IC 31-33; IC 33-37.

Synopsis: Adoption and child protection review boards. Allows a court to form an adoption review board that may review agency reports regarding adoptions and make recommendations to the court. Allows a juvenile court to form a child protection services review board that may review the removal of a child from the child's family and make recommendations to the court.

Effective: July 1, 2005.

Thompson

January 6, 2005, read first time and referred to Committee on Family, Children and Human Affairs.
February 8, 2005, amended, reported — Do Pass.

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February 9, 2005

First Regular Session 114th General Assembly (2005)

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 2004 Regular Session of the General Assembly.

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HOUSE BILL No. 1197

A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

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

- 1 SECTION 1. IC 31-19-8-8.5 IS ADDED TO THE INDIANA CODE
2 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2005]: **Sec. 8.5. (a) A court may:**
4 (1) **establish; and**
5 (2) **assign cases to;**
6 **an adoption review board to assist the court in reviewing an agency**
7 **report regarding a potential adoption.**
8 (b) **A court shall establish and assign a case to an adoption**
9 **review board if:**
10 (1) **the court does not otherwise assign a case to the board**
11 **under subsection (a); and**
12 (2) **a petitioner for adoption petitions the court to have an**
13 **adoption review board review the agency report.**
14 **The court shall order the petitioner to pay an adoption review fee**
15 **of not more than one hundred dollars (\$100) if an adoption review**
16 **board is established under this subsection.**
17 (c) **The composition of an adoption review board is in the sole**

HB 1197—LS 6419/DI 107+



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discretion of the court.

(d) A member of an adoption review board serves voluntarily and may not receive a per diem or reimbursement for expenses.

(e) Except as provided in subsection (i), if the court believes that a confidential report or document would benefit an adoption review board, the court may issue an order authorizing disclosure of the confidential report or document to the board. The adoption review board may not disclose the contents of a confidential report or document to any person who is not allowed disclosure by the court or by statute.

(f) In reviewing an agency report regarding a potential adoption, an adoption review board may consider testimony and reports from:

- (1) the petitioner or petitioners for adoption; or
- (2) an employee of the county office of family and children who drafted a report regarding a potential adoption.

(g) After reviewing an agency report and hearing testimony, an adoption review board shall issue a report and recommendation to the court.

(h) The report and recommendation of an adoption review board are advisory and are not binding on the court.

(i) A court may not order a private licensed child placing agency to provide an adoption review board any reports.

SECTION 2. IC 31-33-16-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) The juvenile court shall review the status of a child removed from the child's family under this article (or IC 31-6-11 before its repeal) according to IC 31-34-21.

(b) If a juvenile court grants a petition under section 2(b) of this chapter to have a child protection services review board review the removal of a child from the child's family, the juvenile court shall review and consider the board's report.

SECTION 3. IC 31-33-16-2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) A juvenile court may establish and assign cases to a child protection services review board to review the removal of a child from the child's family if:

- (1) the child was not removed because a family member committed or was alleged to have committed a criminal act; and
- (2) it has been more than sixty (60) days since the child was removed from the family.

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(b) A juvenile court shall establish and assign a case to a child protection services review board if:

- (1) the juvenile court does not otherwise assign a case to the board under subsection (a); and**
- (2) a parent of a child petitions the juvenile court to have a child protection services review board review the removal of the child.**

The juvenile court shall order the petitioner to pay a child protection fee of not more than one hundred dollars (\$100) if a child protection services board is established under this subsection.

(c) The composition of a child protection services review board is in the sole discretion of the juvenile court.

(d) A member of a child protection services review board serves voluntarily and may not receive a per diem or reimbursement for expenses.

SECTION 4. IC 31-33-16-3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) In reviewing the removal of a child from the child's family under this chapter, a child protection services review board may consider testimony and reports from:

- (1) a family member of the child;**
- (2) an employee of the local child protection services;**
- (3) a law enforcement officer; and**
- (4) an individual whom the judge requests to give testimony to the board;**

who is familiar with the removal of the child from the child's family.

(b) If a court believes a confidential report or document would benefit a child protection services review board, the court may issue an order authorizing disclosure of the document to the board. The board may not disclose the contents of a confidential report or document to any person who is not allowed disclosure by the court or by statute.

(c) A child protection services review board shall issue a report and recommendation to the juvenile court.

(d) The report and recommendation of a child protection services review board are advisory and are not binding on the court.

SECTION 5. IC 31-33-18-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. The reports and other material described in section 1(a) of this chapter and the unredacted reports and other material described in section 1(b) of this chapter shall

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- 1 be made available only to the following:
- 2 (1) Persons authorized by this article.
- 3 (2) A legally mandated public or private child protective agency
- 4 investigating a report of child abuse or neglect or treating a child
- 5 or family that is the subject of a report or record.
- 6 (3) A police or other law enforcement agency, prosecuting
- 7 attorney, or coroner in the case of the death of a child who is
- 8 investigating a report of a child who may be a victim of child
- 9 abuse or neglect.
- 10 (4) A physician who has before the physician a child whom the
- 11 physician reasonably suspects may be a victim of child abuse or
- 12 neglect.
- 13 (5) An individual legally authorized to place a child in protective
- 14 custody if:
- 15 (A) the individual has before the individual a child whom the
- 16 individual reasonably suspects may be a victim of abuse or
- 17 neglect; and
- 18 (B) the individual requires the information in the report or
- 19 record to determine whether to place the child in protective
- 20 custody;
- 21 (6) An agency having the legal responsibility or authorization to
- 22 care for, treat, or supervise a child who is the subject of a report
- 23 or record or a parent, guardian, custodian, or other person who is
- 24 responsible for the child's welfare.
- 25 (7) An individual named in the report or record who is alleged to
- 26 be abused or neglected or, if the individual named in the report is
- 27 a child or is otherwise incompetent, the individual's guardian ad
- 28 litem or the individual's court appointed special advocate, or both.
- 29 (8) Each parent, guardian, custodian, or other person responsible
- 30 for the welfare of a child named in a report or record and an
- 31 attorney of the person described under this subdivision, with
- 32 protection for the identity of reporters and other appropriate
- 33 individuals.
- 34 (9) A court, for redaction of the record in accordance with section
- 35 1.5 of this chapter, or upon the court's finding that access to the
- 36 records may be necessary for determination of an issue before the
- 37 court. However, except for disclosure of a redacted record in
- 38 accordance with section 1.5 of this chapter, access is limited to in
- 39 camera inspection unless the court determines that public
- 40 disclosure of the information contained in the records is necessary
- 41 for the resolution of an issue then pending before the court.
- 42 (10) A grand jury upon the grand jury's determination that access

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to the records is necessary in the conduct of the grand jury's official business.

(11) An appropriate state or local official responsible for the child protective service or legislation carrying out the official's official functions.

(12) A foster care review board established by a juvenile court under IC 31-34-21-9 (or IC 31-6-4-19 before its repeal) upon the court's determination that access to the records is necessary to enable the foster care review board to carry out the board's purpose under IC 31-34-21.

(13) The community child protection team appointed under IC 31-33-3 (or IC 31-6-11-14 before its repeal), upon request, to enable the team to carry out the team's purpose under IC 31-33-3.

(14) A person about whom a report has been made, with protection for the identity of:

(A) any person reporting known or suspected child abuse or neglect; and

(B) any other person if the person or agency making the information available finds that disclosure of the information would be likely to endanger the life or safety of the person.

(15) An employee of the division of family and children, a caseworker, or a juvenile probation officer conducting a criminal history check under IC 12-14-25.5-3, IC 31-34, or IC 31-37 to determine the appropriateness of an out-of-home placement for a:

(A) child at imminent risk of placement;

(B) child in need of services; or

(C) delinquent child.

The results of a criminal history check conducted under this subdivision must be disclosed to a court determining the placement of a child described in clauses (A) through (C).

(16) A local child fatality review team established under ~~IC 12-13-15-6~~. **IC 12-13-15-5.**

(17) The statewide child fatality review committee established by IC 12-13-15.1-6.

(18) An adoption review board established by a court under IC 31-19-8-8.5, if a court issues an order under IC 31-19-8-8.5(e).

(19) A child protection services review board established by a juvenile court under IC 31-33-16-2, if a court issues an order under IC 31-33-16-3(b).

SECTION 6. IC 33-37-4-3, AS AMENDED BY P.L.85-2004, SECTION 18, AND AS AMENDED BY P.L.95-2004, SECTION 6, IS

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1 CORRECTED AND AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) The clerk shall collect a
3 juvenile costs fee of one hundred twenty dollars (\$120) for each action
4 filed under any of the following

- 5 (1) IC 31-34 (children in need of services).
- 6 (2) IC 31-37 (delinquent children).
- 7 (3) IC 31-14 (paternity).

8 (b) In addition to the juvenile costs fee collected under this section,
9 the clerk shall collect the following fees, if they are required under
10 IC 33-37-5:

- 11 (1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or
- 12 IC 33-37-5-4).
- 13 (2) A marijuana eradication program fee (IC 33-37-5-7).
- 14 (3) An alcohol and drug services program user fee
- 15 (IC 33-37-5-8(b)).
- 16 (4) A law enforcement continuing education program fee
- 17 (IC 33-37-5-8(c)).
- 18 (5) An alcohol and drug countermeasures fee (IC 33-37-5-10).
- 19 (6) A document storage fee (IC 33-37-5-20).
- 20 (7) An automated record keeping fee (IC 33-37-5-21).
- 21 (8) A late payment fee (IC 33-37-5-22).
- 22 (9) *A judicial administration fee ~~under~~ (IC 33-37-5-21.2).*
- 23 ~~(9)~~ **(10) A judicial insurance adjustment fee ~~under~~**
- 24 **(IC 33-37-5-25).**
- 25 **(11) A child protection fee (IC 33-37-5-26).**
- 26 **(12) An adoption review fee (IC 33-37-5-27).**

27 (c) The clerk shall transfer to the county auditor or city or town
28 fiscal officer the following fees not later than thirty (30) days after they
29 are collected:

- 30 (1) The marijuana eradication program fee (IC 33-37-5-7).
- 31 (2) The alcohol and drug services program user fee
- 32 (IC 33-37-5-8(b)).
- 33 (3) The law enforcement continuing education program fee
- 34 (IC 33-37-5-8(c)).

35 The auditor or fiscal officer shall deposit the fees in the appropriate
36 user fee fund established under IC 33-37-8.

37 SECTION 7. IC 33-37-4-4, AS AMENDED BY P.L.85-2004,
38 SECTION 19, AND AS AMENDED BY P.L.95-2004, SECTION 7, IS
39 CORRECTED AND AMENDED TO READ AS FOLLOWS
40 [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) The clerk shall collect a civil
41 costs fee of one hundred dollars (\$100) from a party filing a civil
42 action. This subsection does not apply to the following civil actions:

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- 1 (1) Proceedings to enforce a statute defining an infraction under
 2 IC 34-28-5 (or IC 34-4-32 before its repeal).
 3 (2) Proceedings to enforce an ordinance under IC 34-28-5 (or
 4 IC 34-4-32 before its repeal).
 5 (3) Proceedings in juvenile court under IC 31-34 or IC 31-37.
 6 (4) Proceedings in paternity under IC 31-14.
 7 (5) Proceedings in small claims court under IC 33-34.
 8 (6) Proceedings in actions described in section 7 of this chapter.
 9 (b) In addition to the civil costs fee collected under this section, the
 10 clerk shall collect the following fees, if they are required under
 11 IC 33-37-5:
 12 (1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or
 13 IC 33-37-5-4).
 14 (2) A support and maintenance fee (IC 33-37-5-6).
 15 (3) A document storage fee (IC 33-37-5-20).
 16 (4) An automated record keeping fee (IC 33-37-5-21).
 17 (5) *A judicial administration fee ~~under~~ (IC 33-37-5-21.2).*
 18 ~~(5) (6) A judicial insurance adjustment fee ~~under~~ (IC 33-37-5-25).~~
 19 **(7) A child protection fee (IC 33-37-5-26).**
 20 **(8) An adoption review fee (IC 33-37-5-27).**
 21 SECTION 8. IC 33-37-5-26 IS ADDED TO THE INDIANA CODE
 22 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 23 1, 2005]: **Sec. 26. (a) This section applies to a proceeding to review
 24 the status of a child removed from the child's family under
 25 IC 31-33-16.**
 26 **(b) The clerk shall collect a child protection fee if ordered by the
 27 court under IC 31-33-16-2.**
 28 SECTION 9. IC 33-37-5-27 IS ADDED TO THE INDIANA CODE
 29 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 30 1, 2005]: **Sec. 27. (a) This section applies to a proceeding under
 31 IC 31-19-8-8.5 to review an agency report regarding a potential
 32 adoption.**
 33 **(b) The clerk shall collect an adoption review fee if ordered by
 34 the court under IC 31-19-8-8.5.**
 35 SECTION 10. IC 33-37-7-2, AS AMENDED BY P.L.85-2004,
 36 SECTION 25, AND AS AMENDED BY P.L.95-2004, SECTION 13,
 37 IS CORRECTED AND AMENDED TO READ AS FOLLOWS
 38 [EFFECTIVE JULY 1, 2005]: **Sec. 2. (a) The clerk of a circuit court
 39 shall distribute semiannually to the auditor of state as the state share for
 40 deposit in the state general fund seventy percent (70%) of the amount
 41 of fees collected under the following:**
 42 (1) IC 33-37-4-1(a) (criminal costs fees).

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- 1 (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- 2 (3) IC 33-37-4-3(a) (juvenile costs fees).
- 3 (4) IC 33-37-4-4(a) (civil costs fees).
- 4 (5) IC 33-37-4-6(a)(1) (small claims costs fees).
- 5 (6) IC 33-37-4-7(a) (probate costs fees).
- 6 (7) IC 33-37-5-17 (deferred prosecution fees).

7 (b) The clerk of a circuit court shall distribute semiannually to the
 8 auditor of state for deposit in the state user fee fund established in
 9 IC 33-37-9-2 the following:

- 10 (1) Twenty-five percent (25%) of the drug abuse, prosecution,
 11 interdiction, and correction fees collected under
 12 IC 33-37-4-1(b)(5).
- 13 (2) Twenty-five percent (25%) of the alcohol and drug
 14 countermeasures fees collected under IC 33-37-4-1(b)(6),
 15 IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).
- 16 (3) Fifty percent (50%) of the child abuse prevention fees
 17 collected under IC 33-37-4-1(b)(7).
- 18 (4) One hundred percent (100%) of the domestic violence
 19 prevention and treatment fees collected under IC 33-37-4-1(b)(8).
- 20 (5) One hundred percent (100%) of the highway work zone fees
 21 collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).
- 22 (6) One hundred percent (100%) of the safe schools fee collected
 23 under IC 33-37-5-18.
- 24 (7) One hundred percent (100%) of the automated record keeping
 25 fee (IC 33-37-5-21).

26 (c) The clerk of a circuit court shall distribute monthly to the county
 27 auditor the following:

- 28 (1) Seventy-five percent (75%) of the drug abuse, prosecution,
 29 interdiction, and correction fees collected under
 30 IC 33-37-4-1(b)(5).
- 31 (2) Seventy-five percent (75%) of the alcohol and drug
 32 countermeasures fees collected under IC 33-37-4-1(b)(6),
 33 IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

34 The county auditor shall deposit fees distributed by a clerk under this
 35 subsection into the county drug free community fund established under
 36 IC 5-2-11.

37 (d) The clerk of a circuit court shall distribute monthly to the county
 38 auditor fifty percent (50%) of the child abuse prevention fees collected
 39 under IC 33-37-4-1(b)(7). The county auditor shall deposit fees
 40 distributed by a clerk under this subsection into the county child
 41 advocacy fund established under IC 12-17-17.

42 (e) The clerk of a circuit court shall distribute monthly to the county

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1 auditor one hundred percent (100%) of the late payment fees collected
2 under IC 33-37-5-22. The county auditor shall deposit fees distributed
3 by a clerk under this subsection as follows:

4 (1) If directed to do so by an ordinance adopted by the county
5 fiscal body, the county auditor shall deposit forty percent (40%)
6 of the fees in the clerk's record perpetuation fund established
7 under IC 33-37-5-2 and sixty percent (60%) of the fees in the
8 county general fund.

9 (2) If the county fiscal body has not adopted an ordinance
10 described in subdivision (1), the county auditor shall deposit all
11 the fees in the county general fund.

12 (f) The clerk of the circuit court shall distribute semiannually to the
13 auditor of state for deposit in the sexual assault victims assistance fund
14 established by IC 16-19-13-6 one hundred percent (100%) of the sexual
15 assault victims assistance fees collected under IC 33-37-5-23.

16 (g) The clerk of a circuit court shall distribute monthly to the county
17 auditor the following:

18 (1) One hundred percent (100%) of the support and maintenance
19 fees for cases designated as non-Title IV-D child support cases in
20 the Indiana support enforcement tracking system (ISETS)
21 collected under IC 33-37-5-6.

22 (2) The percentage share of the support and maintenance fees for
23 cases designated as IV-D child support cases in ISETS collected
24 under IC 33-37-5-6 that is reimbursable to the county at the
25 federal financial participation rate.

26 The county clerk shall distribute monthly to the office of the secretary
27 of family and social services the percentage share of the support and
28 maintenance fees for cases designated as Title IV-D child support cases
29 in ISETS collected under IC 33-37-5-6 that is not reimbursable to the
30 county at the applicable federal financial participation rate.

31 (h) The clerk of a circuit court shall distribute monthly to the county
32 auditor one hundred percent (100%) of the small claims service fee
33 under IC 33-37-4-6(a)(2) for deposit in the county general fund.

34 (i) *The clerk of a circuit court shall semiannually distribute to the*
35 *auditor of state for deposit in the state general fund one hundred*
36 *percent (100%) of the judicial administration fee collected under*
37 *IC 33-37-5-21.2.*

38 ~~(j)~~ (j) *The clerk of a circuit court shall semiannually distribute to*
39 *the auditor of state for deposit in the judicial branch insurance*
40 *adjustment account established by IC 33-38-5-8.2 one hundred percent*
41 *(100%) of the judicial insurance adjustment fee collected under*
42 *IC 33-37-5-25.*

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- 1 (j) This section applies after June 30, 2005.
- 2 (k) The clerk of a circuit court shall monthly distribute to the
- 3 county auditor one hundred percent (100%) of the child protection
- 4 fee under IC 33-37-5-26 for deposit in the county general fund.
- 5 (l) The clerk of a circuit court shall monthly distribute to the
- 6 county auditor one hundred percent (100%) of the adoption review
- 7 fee under IC 33-37-5-27 for deposit in the county general fund.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Family, Children and Human Affairs, to which was referred House Bill 1197, 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 2, line 4, delete "If" and insert "**Except as provided in subsection (i), if**".

Page 2, line 14, delete "of:" and insert "**of**".

Page 2, line 15, delete "(A)".

Page 2, line 15, delete "children; or" and insert "**children who drafted a report regarding a potential adoption.**".

Page 2, run in lines 14 through 15.

Page 2, delete lines 16 through 17.

Page 2, between lines 22 and 23, begin a new paragraph and insert: "**(i) A court may not order a private licensed child placing agency to provide an adoption review board any reports.**".

and when so amended that said bill do pass.

(Reference is to HB 1197 as introduced.)

BUDAK, Chair

Committee Vote: yeas 12, nays 0.

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