

# HOUSE BILL No. 1056

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 31-32; IC 33-40-6.

**Synopsis:** Representation of qualified foster children. Provides that a child in a child in need of services (CHINS) proceeding who meets certain requirements is entitled to be represented by counsel. Requires a juvenile court in certain circumstances to appoint counsel. Requires the attorney appointed to represent the child to continue representing the child throughout the entire duration of the CHINS case. Allows the county to apply for reimbursement under the public defense fund.

**Effective:** July 1, 2024.

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**Olthoff, Harris**

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January 8, 2024, read first time and referred to Committee on Judiciary.

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Second Regular Session of the 123rd General Assembly (2024)

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 2023 Regular Session of the General Assembly.

# HOUSE BILL No. 1056

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 31-32-2-2.1 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2024]: **Sec. 2.1. A child who meets the following requirements is**  
4 **entitled to representation by counsel in a child in need of services**  
5 **proceeding:**  
6 **(1) The child is at least fourteen (14) years of age and not**  
7 **more than twenty-three (23) years of age.**  
8 **(2) The child is one (1) or more of the following:**  
9 **(A) A child alleged to be a child in need of services under**  
10 **IC 31-34-1.**  
11 **(B) An older youth in a collaborative care program under**  
12 **IC 31-28-5.8.**  
13 **(C) A participant who:**  
14 **(i) is in voluntary older youth services provided by a**  
15 **contractor of the department; and**  
16 **(ii) was referred to the services by a department**  
17 **employee.**



- 1           **(3) The child agrees to accept counsel.**
- 2           **(4) The child meets one (1) or more of the following:**
- 3               **(A) Is placed in residential care.**
- 4               **(B) Is an older youth, is a respondent in the child in need of**
- 5               **services proceeding, and has admitted or denied the**
- 6               **petition.**
- 7               **(C) Is alleged, by a petition filed by the department, to be**
- 8               **a victim of human or sexual trafficking under**
- 9               **IC 31-34-1-3.5.**
- 10              **(D) Is a dual status child (as defined in IC 31-41-1-2) with**
- 11              **an open child in need of services proceeding and a**
- 12              **delinquency proceeding.**
- 13              **(E) Has wishes that significantly differ from the child's**
- 14              **best interest.**
- 15              **(F) Is the parent of an infant or child who is also the**
- 16              **subject of a child in need of services proceeding.**
- 17              **(G) Needs the protection of an attorney-client relationship.**
- 18              **(H) Has a conflict of interest that prevents the guardian ad**
- 19              **litem or court appointed special advocate from advocating**
- 20              **for the child.**
- 21              **(I) Has an immigration issue.**
- 22              **(J) Has a trust or assets that need to be protected.**
- 23              **(K) Has a personal injury claim.**

24           SECTION 2. IC 31-32-4-1 IS AMENDED TO READ AS  
 25 FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 1. The following  
 26 persons are entitled to be represented by counsel:

- 27               (1) A child charged with a delinquent act, as provided by
- 28               IC 31-32-2-2.
- 29               (2) A parent, in a proceeding to terminate the parent-child
- 30               relationship, as provided by IC 31-32-2-5.
- 31               **(3) A child, in a child in need of services proceeding, as**
- 32               **provided by IC 31-32-2-2.1.**
- 33               (4) Any other person designated by law.

34           SECTION 3. IC 31-32-4-2 IS AMENDED TO READ AS  
 35 FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 2. (a) If:

- 36               (1) a child:
  - 37                   **(A) alleged to be a delinquent child; or**
  - 38                   **(B) entitled to counsel under IC 31-32-2-2.1;**
- 39               does not have an attorney who may represent the child without a
- 40               conflict of interest; and
- 41               (2) the child has not lawfully waived the child's right to counsel
- 42               under IC 31-32-5 (or IC 31-6-7-3 before its repeal);



1 the juvenile court shall appoint counsel for the child at the detention  
 2 hearing or at the initial hearing, whichever occurs first, or at any earlier  
 3 time.

4 (b) The court may appoint counsel to represent any child in any  
 5 other proceeding.

6 SECTION 4. IC 31-32-4-5 IS ADDED TO THE INDIANA CODE  
 7 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 8 1, 2024]: **Sec. 5. (a) If an attorney is appointed by a juvenile court  
 9 based on the child's right to counsel provided in IC 31-32-2-1, the  
 10 attorney shall represent the child throughout the entire duration  
 11 of the child in need of services case, including any appeals.**

12 **(b) After completion of the case described in subsection (a), a  
 13 county auditor may submit a certified request to the public  
 14 defender commission for reimbursement under IC 33-40-6-4.**

15 SECTION 5. IC 33-40-6-4, AS AMENDED BY P.L.104-2022,  
 16 SECTION 137, IS AMENDED TO READ AS FOLLOWS  
 17 [EFFECTIVE JULY 1, 2024]: Sec. 4. (a) For purposes of this section,  
 18 the term "county auditor" includes a person who:

19 (1) is the auditor of a county that is a member of a multicounty  
 20 public defender's office; and

21 (2) is responsible for the receipt, disbursement, and accounting of  
 22 all monies distributed to the multicounty public defender's office.

23 (b) A county auditor may submit on a quarterly basis a certified  
 24 request to the public defender commission for reimbursement from the  
 25 public defense fund for an amount equal to fifty percent (50%) of the  
 26 county's expenditures for indigent defense services provided to a  
 27 defendant against whom the death sentence is sought under  
 28 IC 35-50-2-9.

29 (c) A county auditor may submit on a quarterly basis a certified  
 30 request to the public defender commission for reimbursement from the  
 31 public defense fund for an amount equal to forty percent (40%) of the  
 32 county's or multicounty public defender's office's expenditures for  
 33 indigent defense services provided in all noncapital cases except  
 34 misdemeanors.

35 **(d) A county auditor may submit on a quarterly basis a certified  
 36 request to the public defender commission for reimbursement from  
 37 the public defense fund for an amount equal to forty percent (40%)  
 38 of the county's or multicounty public defender's office's  
 39 expenditures for counsel services provided under IC 31-32-4-5.**

40 ~~(d)~~ (e) A request under this section from a county described in  
 41 IC 33-40-7-1(5) may be limited to expenditures for indigent defense  
 42 services provided by a particular division of a court.



1 SECTION 6. IC 33-40-6-5, AS AMENDED BY THE TECHNICAL  
 2 CORRECTIONS BILL OF THE 2024 GENERAL ASSEMBLY, IS  
 3 AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]:  
 4 Sec. 5. (a) As used in this section, "commission" means the Indiana  
 5 public defender commission established by IC 33-40-5-2.

6 (b) Except as provided under section 6 of this chapter, upon  
 7 certification by a county auditor and a determination by the  
 8 commission that the request is in compliance with the guidelines and  
 9 standards set by the commission, the commission shall quarterly  
 10 authorize an amount of reimbursement due the county or multicounty  
 11 public defender's office:

12 (1) that is equal to fifty percent (50%) of the county's or  
 13 multicounty public defender's office's certified expenditures for  
 14 indigent defense services provided for a defendant against whom  
 15 the death sentence is sought under IC 35-50-2-9; ~~and~~

16 (2) that is equal to forty percent (40%) of the county's or  
 17 multicounty public defender's office's certified expenditures for  
 18 defense services provided in noncapital cases except  
 19 misdemeanors; **and**

20 **(3) that is equal to forty percent (40%) of the county's or**  
 21 **multicounty public defender's office's certified expenditures**  
 22 **for counsel services provided under IC 31-32-4-5.**

23 The commission shall then certify to the ~~auditor of state~~ **comptroller**  
 24 the amount of reimbursement owed to a county or multicounty public  
 25 defender's office under this chapter.

26 (c) Upon receiving certification from the commission, the ~~auditor of~~  
 27 state **comptroller** shall issue a warrant to the treasurer of state for  
 28 disbursement to the county or multicounty public defender's office of  
 29 the amount certified.

