

HOUSE BILL No. 1090

DIGEST OF INTRODUCED BILL

Citations Affected: IC 31-9-2; IC 31-14-13; IC 31-17-2.

Synopsis: Joint child custody. Provides that a court shall order: (1) joint physical custody of a child unless the court finds by clear and convincing evidence that joint physical custody is not in the child's best interests; and (2) joint legal custody of a child unless the court finds by clear and convincing evidence that joint legal custody is not in the child's best interests. Requires a court that does not order joint physical custody or joint legal custody to issue written findings of fact and conclusions of law on which the order is based. Provides that a parent's knowing false allegation to a court in a child custody proceeding that the other parent abused or neglected the child is: (1) a factor the court shall consider in determining custody of the child; and (2) a ground for modification of a child custody order. Requires the office of judicial administration (office) to annually publish on the office's website statistics regarding the number and proportion of child custody orders issued in the immediately preceding calendar year for: (1) joint physical custody; (2) a physical custody arrangement other than joint physical custody; (3) joint legal custody; and (4) a legal custody arrangement other than joint legal custody.

Effective: July 1, 2025.

Garcia Wilburn

January 8, 2025, read first time and referred to Committee on Judiciary.



First Regular Session of the 124th General Assembly (2025)

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 2024 Regular Session of the General Assembly.

HOUSE BILL No. 1090

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 31-9-2-67, AS AMENDED BY P.L.95-2009,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2025]: Sec. 67. "Joint legal custody", for purposes of
4 IC 31-14-13, IC 31-17-2-13, ~~IC 31-17-2-14~~, and IC 31-17-2-15, means
5 that the persons awarded joint custody will share authority and
6 responsibility for the major decisions concerning the child's
7 upbringing, including the child's education, health care, and religious
8 training.

9 SECTION 2. IC 31-9-2-67.5 IS ADDED TO THE INDIANA CODE
10 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
11 1, 2025]: **Sec. 67.5. "Joint physical custody", for purposes of**
12 **IC 31-14-13 and IC 31-17-2, means physical custody of a child**
13 **allocated equally, or as equally as practicable, between the child's**
14 **parents or custodians.**

15 SECTION 3. IC 31-14-13-2 IS AMENDED TO READ AS
16 FOLLOWS [EFFECTIVE JULY 1, 2025]: Sec. 2. **(a)** The court shall
17 ~~determine custody in accordance with~~ **award joint physical custody**



1 **of a child unless the court finds by clear and convincing evidence**
 2 **that joint physical custody is not in** the best interests of the child.

3 **(b)** In determining the child's best interests ~~there is not a~~
 4 ~~presumption favoring either parent.~~ **for purposes of subsection (a),** the
 5 court shall consider all relevant factors, including the following:

6 (1) The age and sex of the child.

7 (2) The wishes of the child's parents.

8 (3) The wishes of the child, with more consideration given to the
 9 child's wishes if the child is at least fourteen (14) years of age.

10 (4) The interaction and interrelationship of the child with:

11 (A) the child's parents;

12 (B) the child's siblings; and

13 (C) any other person who may significantly affect the child's
 14 best interest.

15 (5) The child's adjustment to home, school, and community.

16 (6) The mental and physical health of all individuals involved.

17 (7) Evidence of a pattern of domestic or family violence by either
 18 parent.

19 **(8) A finding by the court that a parent of the child knowingly**
 20 **made a false allegation to the court that the other parent**
 21 **abused or neglected the child.**

22 ~~(8)~~ **(9)** Evidence that the child has been cared for by a de facto
 23 custodian, and if the evidence is sufficient, the court shall
 24 consider the factors described in section 2.5(b) of this chapter.

25 **(c) If the court does not award joint physical custody of a child**
 26 **under subsection (a), the court shall include in the court's custody**
 27 **order the court's findings of fact and conclusions of law on which**
 28 **the court based the court's determination that joint physical**
 29 **custody is not in the best interests of the child.**

30 SECTION 4. IC 31-14-13-2.3, AS ADDED BY P.L.95-2009,
 31 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 32 JULY 1, 2025]: Sec. 2.3. (a) In a proceeding to which this chapter
 33 applies, the court ~~may~~ **shall** award **joint** legal custody of a child ~~jointly~~
 34 ~~if~~ **unless** the court finds **by clear and convincing evidence** that an
 35 award of joint legal custody ~~would be~~ **is not** in the best ~~interest~~
 36 ~~interests~~ of the child.

37 ~~(b) An award of joint legal custody under this section does not~~
 38 ~~require an equal division of physical custody of the child.~~

39 ~~(c)~~ **(b)** In determining ~~whether an award of joint legal custody under~~
 40 ~~this section would be in the best interest~~ **interests** of the child **for**
 41 **purposes of subsection (a),** the court shall consider: it a matter of
 42 ~~primary, but not determinative, importance that the persons awarded~~



1 joint legal custody have agreed to an award of joint legal custody. The
 2 court shall also consider:

3 (1) the fitness and suitability of each of the persons ~~awarded joint~~
 4 **seeking** legal custody;

5 (2) whether the persons ~~awarded joint seeking~~ legal custody are
 6 willing and able to communicate and cooperate in advancing the
 7 child's welfare;

8 (3) the wishes of the child, with more consideration given to the
 9 child's wishes if the child is at least fourteen (14) years of age;

10 (4) whether the child has established a close and beneficial
 11 relationship with both of the persons ~~awarded joint seeking~~ legal
 12 custody;

13 (5) whether the persons ~~awarded joint seeking~~ legal custody:

14 (A) live in close proximity to each other; and

15 (B) plan to continue to do so;

16 (6) the nature of the physical and emotional environment in the
 17 home of each of the persons ~~awarded joint seeking~~ legal custody;
 18 **and**

19 (7) whether there is a pattern of domestic or family violence; **and**

20 **(8) a finding by the court that one (1) of the persons seeking**
 21 **legal custody knowingly made a false allegation to the court**
 22 **that the other person seeking legal custody abused or**
 23 **neglected the child.**

24 **(c) If a court does not award joint legal custody of the child**
 25 **under subsection (a), the court shall include in the court's custody**
 26 **order the court's findings of fact and conclusions of law on which**
 27 **the court based the court's determination that joint legal custody**
 28 **is not in the best interests of the child.**

29 SECTION 5. IC 31-14-13-6 IS AMENDED TO READ AS
 30 FOLLOWS [EFFECTIVE JULY 1, 2025]: Sec. 6. **(a) Subject to**
 31 **subsections (b) and (c), the court may not modify a child custody order**
 32 **unless the court finds:**

33 (1) **that** modification is in the best interests of the child; and

34 (2) **that:**

35 **(A)** there is a substantial change in one (1) or more of the
 36 factors that the court may consider under:

37 **(i) section 2 of this chapter, with regard to modification**
 38 **of physical custody;**

39 **(ii) section 2.3 of this chapter, with regard to**
 40 **modification of legal custody; and**

41 **(iii) if applicable, section 2.5 of this chapter, if applicable;**
 42 **or**



1 **(B) a parent awarded custody of the child knowingly made**
 2 **to the court that issued the custody order a false allegation**
 3 **that the other parent abused or neglected the child.**

4 **(b) If a child custody order provides for joint physical custody**
 5 **of the child, the court may not modify the order to provide for a**
 6 **physical custody arrangement other than joint physical custody**
 7 **unless the court, after considering the factors under section 2 of**
 8 **this chapter, finds by clear and convincing evidence that joint**
 9 **physical custody is not in the best interests of the child. If the court**
 10 **modifies an order awarding joint physical custody of a child to**
 11 **provide for a physical custody arrangement other than joint**
 12 **physical custody of the child, the court shall include in the court's**
 13 **order for modification the court's findings of fact and conclusions**
 14 **of law on which the court based the court's determination that**
 15 **joint physical custody is not in the best interests of the child.**

16 **(c) If a child custody order provides for joint legal custody of**
 17 **the child, the court may not modify the order to provide for a legal**
 18 **custody arrangement other than joint legal custody unless the**
 19 **court, after considering the factors under section 2.3 of this**
 20 **chapter, finds by clear and convincing evidence that joint legal**
 21 **custody is not in the best interests of the child. If the court modifies**
 22 **an order awarding joint legal custody of a child to provide for a**
 23 **legal custody arrangement other than joint legal custody, the court**
 24 **shall include in the court's order for modification the court's**
 25 **findings of fact and conclusions of law on which the court based the**
 26 **court's determination that joint legal custody is not in the best**
 27 **interests of the child.**

28 SECTION 6. IC 31-14-13-7 IS AMENDED TO READ AS
 29 FOLLOWS [EFFECTIVE JULY 1, 2025]: Sec. 7. In making a
 30 determination **under section 6 of this chapter**, the court shall
 31 consider:

- 32 **(1) the factors listed under section 2 of this chapter, with regard**
 33 **to modification of physical custody; and**
 34 **(2) the factors listed under section 2.3 of this chapter, with**
 35 **regard to modification of legal custody.**

36 SECTION 7. IC 31-14-13-9 IS AMENDED TO READ AS
 37 FOLLOWS [EFFECTIVE JULY 1, 2025]: Sec. 9. In a proceeding for
 38 a custody modification, the court may not hear evidence on a matter
 39 occurring before the last custody proceeding between the parties unless
 40 the matter relates to a change in the factors relating to the best interests
 41 of the child as described in:

- 42 **(1) section 2 of this chapter, with regard to modification of**



1 **physical custody;**

2 **(2) section 2.3 of this chapter, with regard to modification of**
 3 **legal custody; and**

4 **(3) if applicable, section 2.5 of this chapter, if applicable.**

5 SECTION 8. IC 31-14-13-13 IS ADDED TO THE INDIANA
 6 CODE AS A NEW SECTION TO READ AS FOLLOWS
 7 [EFFECTIVE JULY 1, 2025]: **Sec. 13. The office of judicial**
 8 **administration shall annually publish on the website of the office**
 9 **of judicial administration the number and proportion of child**
 10 **custody orders, and orders for modification of child custody, issued**
 11 **under this chapter in the immediately preceding calendar year in**
 12 **each of the following categories:**

13 **(1) Orders for joint physical custody.**

14 **(2) Orders for a physical custody arrangement other than**
 15 **joint physical custody.**

16 **(3) Orders for joint legal custody.**

17 **(4) Orders for a legal custody arrangement other than joint**
 18 **legal custody.**

19 SECTION 9. IC 31-17-2-8, AS AMENDED BY P.L.194-2017,
 20 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 21 JULY 1, 2025]: **Sec. 8. (a) The court shall determine custody and enter**
 22 **a custody order in accordance with award joint physical custody of**
 23 **a child unless the court finds by clear and convincing evidence that**
 24 **joint physical custody is not in the best interests of the child.**

25 **(b) In determining the best interests of the child there is no**
 26 **presumption favoring either parent. for purposes of subsection (a), the**
 27 **court shall consider all relevant factors, including the following:**

28 (1) The age and sex of the child.

29 (2) The wishes of the child's parent or parents.

30 (3) The wishes of the child, with more consideration given to the
 31 child's wishes if the child is at least fourteen (14) years of age.

32 (4) The interaction and interrelationship of the child with:

33 (A) the child's parent or parents;

34 (B) the child's sibling; and

35 (C) any other person who may significantly affect the child's
 36 best interests.

37 (5) The child's adjustment to the child's:

38 (A) home;

39 (B) school; and

40 (C) community.

41 (6) The mental and physical health of all individuals involved.

42 (7) Evidence of a pattern of domestic or family violence by either



parent.

(8) A finding by the court that a parent of the child made a false allegation to the court that the other parent abused or neglected the child.

~~(8)~~ **(9)** Evidence that the child has been cared for by a de facto custodian, and if the evidence is sufficient, the court shall consider the factors described in section 8.5(b) of this chapter.

~~(9)~~ **(10)** A designation in a power of attorney of:

(A) the child's parent; or

(B) a person found to be a de facto custodian of the child.

(c) If the court does not award joint physical custody of the child under subsection (a), the court shall include in the court's custody order the court's findings of fact and conclusions of law on which the court based the court's determination that joint physical custody is not in the best interests of the child.

SECTION 10. IC 31-17-2-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2025]: Sec. 13. The court ~~may~~ **shall** award **joint** legal custody of a child ~~jointly if~~ **unless** the court finds **by clear and convincing evidence** that an award of joint legal custody ~~would be~~ **is not** in the best ~~interest~~ **interests** of the child.

SECTION 11. IC 31-17-2-14 IS REPEALED [EFFECTIVE JULY 1, 2025]. ~~Sec. 14. An award of joint legal custody under section 13 of this chapter does not require an equal division of physical custody of the child.~~

SECTION 12. IC 31-17-2-15, AS AMENDED BY P.L.3-2008, SECTION 237, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2025]: Sec. 15. In determining ~~whether~~ an award of joint legal custody under section 13 of this chapter would be in the best ~~interest~~ **interests** of ~~the~~ **a** child **for purposes of section 13 of this chapter**, the court shall consider: it a ~~matter of primary, but not determinative, importance that the persons awarded joint custody have agreed to an award of joint legal custody.~~ **The court shall also consider:**

(1) the fitness and suitability of each of the persons ~~awarded joint~~ **seeking legal** custody;

(2) whether the persons ~~awarded joint~~ **seeking legal** custody are willing and able to communicate and cooperate in advancing the child's welfare;

(3) the wishes of the child, with more consideration given to the child's wishes if the child is at least fourteen (14) years of age;

(4) whether the child has established a close and beneficial relationship with both of the persons ~~awarded joint~~ **seeking legal** custody;



- 1 (5) whether the persons ~~awarded joint seeking legal~~ custody:
 2 (A) live in close proximity to each other; and
 3 (B) plan to continue to do so; ~~and~~
 4 (6) the nature of the physical and emotional environment in the
 5 home of each of the persons ~~awarded joint seeking legal~~ custody;
 6 **and**
 7 **(7) a finding by the court that one of the persons seeking legal**
 8 **custody knowingly made a false allegation to the court that**
 9 **the other person seeking legal custody abused or neglected the**
 10 **child.**

11 SECTION 13. IC 31-17-2-15.5 IS ADDED TO THE INDIANA
 12 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 13 [EFFECTIVE JULY 1, 2025]: **Sec. 15.5. If a court does not award**
 14 **joint legal custody of a child under section 13 of this chapter, the**
 15 **court shall include in the court's custody order the court's findings**
 16 **of fact and conclusions of law on which the court based the court's**
 17 **determination that joint legal custody is not in the best interests of**
 18 **the child.**

19 SECTION 14. IC 31-17-2-21 IS AMENDED TO READ AS
 20 FOLLOWS [EFFECTIVE JULY 1, 2025]: Sec. 21. (a) **Subject to**
 21 **subsections (c) and (d),** the court may not modify a child custody order
 22 unless **the court finds:**

- 23 (1) **that** the modification is in the best interests of the child; and
 24 (2) **that:**
 25 (A) there is a substantial change in one (1) or more of the
 26 factors that the court may consider under:
 27 (i) **section 8 of this chapter, with regard to modification**
 28 **of physical custody;**
 29 (ii) **section 15 of this chapter, with regard to modification**
 30 **of legal custody; and**
 31 (iii) ~~if applicable,~~ **section 8.5 of this chapter, if applicable;**
 32 **or**
 33 (B) **a parent awarded custody of the child knowingly made**
 34 **to the court that issued the custody order a false allegation**
 35 **that the other parent abused or neglected the child.**

- 36 (b) In making its determination, the court shall consider:
 37 (1) the factors listed under section 8 of this chapter, **with regard**
 38 **to modification of physical custody; and**
 39 (2) the factors listed under section 15 of this chapter, **with**
 40 **regard to modification of legal custody.**

41 (c) **If a child custody order provides for joint physical custody**
 42 **of the child, the court may not modify the order to provide for a**



1 physical custody arrangement other than joint physical custody
 2 unless the court, after considering the factors under section 8 of
 3 this chapter, finds by clear and convincing evidence that joint
 4 physical custody is not in the best interests of the child. If the court
 5 modifies an order awarding joint physical custody of a child to
 6 provide for a physical custody arrangement other than joint
 7 physical custody of the child, the court shall include in the court's
 8 order for modification the court's findings of fact and conclusions
 9 of law on which the court based the court's determination that
 10 joint physical custody is not in the best interests of the child.

11 (d) If a child custody order provides for joint legal custody of
 12 the child, the court may not modify the order to provide for a legal
 13 custody arrangement other than joint legal custody unless the
 14 court, after considering the factors under section 15 of this chapter,
 15 finds by clear and convincing evidence that joint legal custody is
 16 not in the best interests of the child. If the court modifies an order
 17 awarding joint legal custody of a child to provide for a legal
 18 custody arrangement other than joint legal custody, the court shall
 19 include in the court's order for modification the court's findings of
 20 fact and conclusions of law on which the court based the court's
 21 determination that joint legal custody is not in the best interests of
 22 the child.

23 (e) (e) The court shall not hear evidence on a matter occurring
 24 before the last custody proceeding between the parties unless the
 25 matter relates to a change in the factors relating to the best interests of
 26 the child as described by:

27 (1) section 8 of this chapter, with regard to modification of
 28 physical custody;

29 (2) section 15 of this chapter, with regard to modification of
 30 legal custody; and

31 (3) if applicable, section 8.5 of this chapter, if applicable.

32 SECTION 15. IC 31-17-2-27 IS ADDED TO THE INDIANA
 33 CODE AS A NEW SECTION TO READ AS FOLLOWS
 34 [EFFECTIVE JULY 1, 2025]: **Sec. 27. The office of judicial
 35 administration shall annually publish on the website of the office
 36 of judicial administration the number and proportion of child
 37 custody orders, and orders for modification of child custody, issued
 38 under this chapter in the immediately preceding calendar year in
 39 each of the following categories:**

40 (1) Orders for joint physical custody.

41 (2) Orders for a physical custody arrangement other than
 42 joint physical custody.



- 1 **(3) Orders for joint legal custody.**
- 2 **(4) Orders for a legal custody arrangement other than joint**
- 3 **legal custody.**

