



January 25, 2024

HOUSE BILL No. 1310

DIGEST OF HB 1310 (Updated January 25, 2024 10:51 am - DI 148)

Citations Affected: IC 31-34; IC 31-35.

Synopsis: Children in need of services. Provides that if a child has been removed from the child's parent for at least 12 of the most recent 22 months at the time of a periodic case review, the child's permanency plan must include at least one intended permanent or long term arrangement for care and custody of the child other than reunification of the child with the child's parent, guardian, or custodian. Provides that concurrent planning must be implemented if the child has been removed from the child's parent for at least 12 of the most recent 22 months at the time of a permanency hearing. Provides that the department may not: (1) take adverse action against a foster parent's license; or (2) remove a child from the home of a foster parent, relative of the child, or de facto custodian; on the basis of the foster parent, relative, or de facto custodian filing a notice with the court that a petition is required to be filed, but has not been filed, to terminate the parent-child relationship with regard to the child.

Effective: July 1, 2024.

Lauer, Olthoff

January 10, 2024, read first time and referred to Committee on Family, Children and Human Affairs.
January 25, 2024, amended, reported — Do Pass.

HB 1310—LS 7045/DI 119



January 25, 2024

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. 1310

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 31-34-21-5, AS AMENDED BY P.L.156-2020,
2 SECTION 118, IS AMENDED TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2024]: Sec. 5. (a) **Subject to subsection (c)**, the
4 court shall determine:
5 (1) whether the child's case plan, services, and placement meet
6 the special needs and best interests of the child;
7 (2) whether the department has made reasonable efforts to
8 provide family services; and
9 (3) a projected date for the child's return home, the child's
10 adoption placement, the child's emancipation, or the appointment
11 of a legal guardian for the child under section 7.5(c)(1)(D) of this
12 chapter.
13 (b) The determination of the court under subsection (a) must be
14 based on findings written after consideration of the following:
15 (1) Whether the department, the child, or the child's parent,
16 guardian, or custodian has complied with the child's case plan.
17 (2) Written documentation containing descriptions of:

HB 1310—LS 7045/DI 119



- 1 (A) the family services that have been offered or provided to
 2 the child or the child's parent, guardian, or custodian;
 3 (B) the dates during which the family services were offered or
 4 provided; and
 5 (C) the outcome arising from offering or providing the family
 6 services.
- 7 (3) The extent of the efforts made by the department to offer and
 8 provide family services.
- 9 (4) The extent to which the parent, guardian, or custodian has
 10 enhanced the ability to fulfill parental obligations.
- 11 (5) The extent to which the parent, guardian, or custodian has
 12 visited the child, including the reasons for infrequent visitation.
- 13 (6) The extent to which the parent, guardian, or custodian has
 14 cooperated with the department.
- 15 (7) The child's recovery from any injuries suffered before
 16 removal.
- 17 (8) Whether any additional services are required for the child or
 18 the child's parent, guardian, or custodian and, if so, the nature of
 19 those services.
- 20 (9) The extent to which the child has been rehabilitated.
- 21 (10) If the child is placed out-of-home, whether the child is in the
 22 least restrictive, most family-like setting, and whether the child is
 23 placed close to the home of the child's parent, guardian, or
 24 custodian.
- 25 (11) The extent to which the causes for the child's out-of-home
 26 placement or supervision have been alleviated.
- 27 (12) Whether current placement or supervision by the department
 28 should be continued.
- 29 (13) The extent to which the child's parent, guardian, or custodian
 30 has participated or has been given the opportunity to participate
 31 in case planning, periodic case reviews, dispositional reviews,
 32 placement of the child, and visitation.
- 33 (14) Whether the department has made reasonable efforts to
 34 reunify or preserve a child's family unless reasonable efforts are
 35 not required under section 5.6 of this chapter.
- 36 (15) **Subject to subsection (c)**, whether it is an appropriate time
 37 to prepare or implement a permanency plan for the child under
 38 section 7.5 of this chapter.
- 39 **(c) The permanency plan for a child who has, at the time of a**
 40 **periodic case review or permanency hearing, been removed from**
 41 **the child's parent for at least twelve (12) months of the most recent**
 42 **twenty-two (22) months, must include at least one (1) intended**



1 **permanent or long term arrangement for care and custody of the**
 2 **child under section 7.5(c) of this chapter other than reunification**
 3 **of the child with the child's parent, guardian, or custodian.**

4 SECTION 2. IC 31-34-21-7, AS AMENDED BY P.L.104-2015,
 5 SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 JULY 1, 2024]: Sec. 7. (a) The court shall hold a permanency hearing:

7 (1) not more than thirty (30) days after a court finds that
 8 reasonable efforts to reunify or preserve a child's family are not
 9 required as described in section 5.6 of this chapter;

10 (2) every twelve (12) months after:

11 (A) the date of the original dispositional decree; or

12 (B) a child in need of services was removed from the child's
 13 parent, guardian, or custodian;

14 whichever comes first; or

15 (3) more often if ordered by the juvenile court.

16 (b) The court shall:

17 (1) make the determination and findings required by section 5 of
 18 this chapter;

19 (2) consider the question of continued jurisdiction and whether
 20 the dispositional decree should be modified;

21 (3) consider recommendations of persons listed under section 4
 22 of this chapter, before approving a permanency plan under
 23 subdivision (5);

24 (4) consult with the child in person, or through an interview with
 25 or written statement or report submitted by:

26 (A) a guardian ad litem or court appointed special advocate for
 27 the child;

28 (B) a case manager; or

29 (C) the person with whom the child is living and who has
 30 primary responsibility for the care and supervision of the
 31 child;

32 in an age appropriate manner as determined by the court,
 33 regarding the proposed permanency plan;

34 (5) consider and approve a permanency plan for the child:

35 (A) that complies with the requirements set forth in section 7.5
 36 of this chapter; **and**

37 (B) **if the child has, at the time of the permanency hearing,**
 38 **been removed from the child's parent for at least twelve**
 39 **(12) months of the most recent twenty-two (22) months,**
 40 **that includes at least one (1) intended permanent or long**
 41 **term arrangement for care and custody of the child under**
 42 **section 7.5(c) of this chapter other than reunification of the**



- 1 **child with the child's parent, guardian, or custodian;**
 2 (6) determine whether an existing permanency plan must be
 3 modified; and
 4 (7) examine procedural safeguards used by the department to
 5 protect parental rights.
- 6 (c) If the child is at least sixteen (16) years of age and the proposed
 7 permanency plan provides for another planned permanent living
 8 arrangement, the court shall, at each permanency hearing, do all the
 9 following:
- 10 (1) Require the department to provide notice of the permanency
 11 hearing to the child, in accordance with section 4(a) of this
 12 chapter.
 13 (2) Provide to the child an opportunity to be heard and to make
 14 recommendations to the court, in accordance with section 4(d) of
 15 this chapter.
 16 (3) Require the department to document or provide testimony
 17 regarding the intensive, ongoing, and, as of the date of the
 18 hearing, unsuccessful efforts made by the department to return the
 19 child home or secure a placement for the child with a fit and
 20 willing relative, legal guardian, or adoptive parent, including
 21 efforts through the use of search technology, such as social media,
 22 to find biological or adoptive family members for the child.
 23 (4) Ask the child about the desired permanency outcome for the
 24 child and document the child's response.
 25 (5) Make a judicial determination explaining why, as of the date
 26 of the hearing, another planned permanent living arrangement is
 27 the best permanency plan for the child and provide compelling
 28 reasons why it continues to not be in the best interests of the child
 29 to:
- 30 (A) return home;
 31 (B) be placed for adoption;
 32 (C) be placed with a legal guardian; or
 33 (D) be placed with a fit and willing relative.
- 34 (6) Require the department to document or provide testimony
 35 regarding the steps the department is taking to ensure that:
 36 (A) the child's foster family home, group home, secure private
 37 facility, or child caring institution is following the reasonable
 38 and prudent parent standard; and
 39 (B) the child has regular, ongoing opportunities to engage in
 40 age or developmentally appropriate activities, including
 41 consulting with the child in an age appropriate manner about
 42 the opportunities for the child to participate in the activities.



1 (d) There is a rebuttable presumption that jurisdiction over the child
 2 in a child in need of services proceeding continues for not longer than
 3 twelve (12) months after the date of the original dispositional decree or
 4 twelve (12) months after the child in need of services was removed
 5 from the child's parent, guardian, or custodian, whichever occurs first.
 6 The state may rebut the presumption and show that jurisdiction should
 7 continue by proving that the objectives of the dispositional decree have
 8 not been accomplished, that a continuation of the decree with or
 9 without any modifications is necessary, and that it is in the child's best
 10 interests for the court to maintain its jurisdiction over the child. If the
 11 department does not sustain its burden for continued jurisdiction, the
 12 court shall:

- 13 (1) direct the department to establish a permanency plan within
 14 thirty (30) days; or
 15 (2) discharge the child and the child's parent, guardian, or
 16 custodian.

17 The court may retain jurisdiction to the extent necessary to carry out
 18 any orders under subdivision (1).

19 SECTION 3. IC 31-35-2-4.5, AS AMENDED BY P.L.156-2020,
 20 SECTION 120, IS AMENDED TO READ AS FOLLOWS
 21 [EFFECTIVE JULY 1, 2024]: Sec. 4.5. (a) This section applies if:

- 22 (1) a court has made a finding under IC 31-34-21-5.6 that
 23 reasonable efforts for family preservation or reunification with
 24 respect to a child in need of services are not required; or
 25 (2) a child in need of services or a delinquent child:

26 (A) has been placed in:

- 27 (i) a foster family home, child caring institution, or group
 28 home licensed under IC 31-27; or
 29 (ii) the home of a relative (as defined in IC 31-9-2-107(c));

30 as directed by a court in a child in need of services proceeding
 31 under IC 31-34 or a delinquency action under IC 31-37; and

32 (B) has been removed from a parent and has been under the
 33 supervision of the department or county probation department
 34 for not less than fifteen (15) months of the most recent
 35 twenty-two (22) months, beginning with the date the child is
 36 removed from the home as a result of the child being alleged
 37 to be a child in need of services or a delinquent child.

38 (b) A person described in section 4(a) of this chapter shall:

- 39 (1) file a petition to terminate the parent-child relationship under
 40 section 4 of this chapter; and
 41 (2) request that the petition be set for hearing.

42 (c) If a petition under subsection (b) is filed by the child's court



1 appointed special advocate or guardian ad litem, the department shall
2 be joined as a party to the petition.

3 (d) A person described in section 4(a) of this chapter may file a
4 motion to dismiss the petition to terminate the parent-child relationship
5 if any of the following circumstances apply:

6 (1) That the current case plan prepared by or under the
7 supervision of the department or the probation department under
8 IC 31-34-15, IC 31-37-19-1.5, or IC 31-37-22-4.5 has
9 documented a compelling reason, based on facts and
10 circumstances stated in the petition or motion, for concluding that
11 filing, or proceeding to a final determination of, a petition to
12 terminate the parent-child relationship is not in the best interests
13 of the child. A compelling reason may include the fact that the
14 child is being cared for by a custodian who is a relative (as
15 defined in IC 31-9-2-107(c)).

16 (2) That:

17 (A) IC 31-34-21-5.6 is not applicable to the child;

18 (B) the department or the probation department has not
19 provided family services to the child, parent, or family of the
20 child in accordance with a currently effective case plan
21 prepared under IC 31-34-15 or IC 31-37-19-1.5 or a
22 permanency plan or dispositional decree approved under
23 IC 31-34 or IC 31-37, for the purpose of permitting and
24 facilitating safe return of the child to the child's home; and

25 (C) the period for completion of the program of family
26 services, as specified in the current case plan, permanency
27 plan, or decree, has not expired.

28 (3) That:

29 (A) IC 31-34-21-5.6 is not applicable to the child;

30 (B) the department has not provided family services to the
31 child, parent, or family of the child, in accordance with
32 applicable provisions of a currently effective case plan
33 prepared under IC 31-34-15 or IC 31-37-19-1.5, or a
34 permanency plan or dispositional decree approved under
35 IC 31-34 or IC 31-37; and

36 (C) the services that the department has not provided are
37 substantial and material in relation to implementation of a plan
38 to permit safe return of the child to the child's home.

39 (4) Subject to subsection (f), that:

40 (A) the parent is incarcerated or the parent's prior incarceration
41 is a significant factor in the child having been under the
42 supervision of the department or a county probation



1 department for at least fifteen (15) of the most recent
2 twenty-two (22) months;

3 (B) the parent maintains a meaningful role in the child's life;
4 and

5 (C) the department has not documented a reason to conclude
6 that it would otherwise be in the child's best interests to
7 terminate the parent-child relationship.

8 The motion to dismiss shall specify which of the allegations described
9 in subdivisions (1) through (4) apply to the motion. If the court finds
10 that any of the allegations described in subdivisions (1) through (4) are
11 true, as established by a preponderance of the evidence, the court shall
12 dismiss the petition to terminate the parent-child relationship. In
13 determining whether to dismiss a petition to terminate a parent-child
14 relationship pursuant to a motion to dismiss that specifies allegations
15 described in subdivision (4), the court may consider the length of time
16 remaining in the incarcerated parent's sentence and any other factor the
17 court considers relevant.

18 (e) If:

19 (1) a child in need of services or a delinquent child has been
20 removed from a parent and has been under the supervision of the
21 department or county probation department for not less than
22 fifteen (15) months of the most recent twenty-two (22) months,
23 beginning with the date the child is removed from the home as a
24 result of the child being alleged to be a child in need of services
25 or a delinquent child; and

26 (2) a petition to terminate the parent-child relationship has not
27 been filed by the department or another person described in
28 section 4(a) of this chapter;

29 a foster parent, relative of the child, or de facto custodian with whom
30 the child has been placed for at least six (6) months may file a notice
31 with the court that the petition to terminate the parent-child relationship
32 has not been filed as required under subsection (b). Upon the filing of
33 the notice, if the petition to terminate the parent-child relationship has
34 not been filed, the court shall schedule a hearing within thirty (30)
35 days.

36 (f) Subsection (d)(4) does not apply if the person was incarcerated
37 for any of the following:

38 (1) A crime described in IC 31-35-3-4.

39 (2) A crime of child abuse (as defined in IC 5-2-22-1).

40 (3) Neglect of a dependent (IC 35-46-1-4) if:

41 (A) the incarceration was for neglect of a dependent as a Level
42 5 or above felony; and



1 (B) the dependent would be the subject of the petition to
2 terminate the parent-child relationship.

3 **(g) The department may not:**

4 **(1) take adverse action against a foster parent's license under**
5 **IC 31-27-4; or**

6 **(2) remove a child from the home of a foster parent, relative**
7 **of the child, or de facto custodian;**

8 **on the basis of the foster parent, relative, or de facto custodian**
9 **filing a notice with the court under subsection (e).**



COMMITTEE REPORT

Mr. Speaker: Your Committee on Family, Children and Human Affairs, to which was referred House Bill 1310, 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 36, delete "Whether" and insert "**Subject to subsection (c), whether**".

Page 2, line 38, delete "case" and insert "**permanency**".

Page 2, line 39, delete "review," and insert "**review or permanency hearing**".

Page 2, line 42, after "child" insert "**under section 7.5(c) of this chapter**".

Page 3, between lines 2 and 3, begin a new paragraph and insert:

"SECTION 2. IC 31-34-21-7, AS AMENDED BY P.L.104-2015, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 7. (a) The court shall hold a permanency hearing:

(1) not more than thirty (30) days after a court finds that reasonable efforts to reunify or preserve a child's family are not required as described in section 5.6 of this chapter;

(2) every twelve (12) months after:

(A) the date of the original dispositional decree; or

(B) a child in need of services was removed from the child's parent, guardian, or custodian;

whichever comes first; or

(3) more often if ordered by the juvenile court.

(b) The court shall:

(1) make the determination and findings required by section 5 of this chapter;

(2) consider the question of continued jurisdiction and whether the dispositional decree should be modified;

(3) consider recommendations of persons listed under section 4 of this chapter, before approving a permanency plan under subdivision (5);

(4) consult with the child in person, or through an interview with or written statement or report submitted by:

(A) a guardian ad litem or court appointed special advocate for the child;

(B) a case manager; or

(C) the person with whom the child is living and who has primary responsibility for the care and supervision of the child;



in an age appropriate manner as determined by the court, regarding the proposed permanency plan;

(5) consider and approve a permanency plan for the child:

(A) that complies with the requirements set forth in section 7.5 of this chapter; and

(B) if the child has, at the time of the permanency hearing, been removed from the child's parent for at least twelve (12) months of the most recent twenty-two (22) months, that includes at least one (1) intended permanent or long term arrangement for care and custody of the child under section 7.5(c) of this chapter other than reunification of the child with the child's parent, guardian, or custodian;

(6) determine whether an existing permanency plan must be modified; and

(7) examine procedural safeguards used by the department to protect parental rights.

(c) If the child is at least sixteen (16) years of age and the proposed permanency plan provides for another planned permanent living arrangement, the court shall, at each permanency hearing, do all the following:

(1) Require the department to provide notice of the permanency hearing to the child, in accordance with section 4(a) of this chapter.

(2) Provide to the child an opportunity to be heard and to make recommendations to the court, in accordance with section 4(d) of this chapter.

(3) Require the department to document or provide testimony regarding the intensive, ongoing, and, as of the date of the hearing, unsuccessful efforts made by the department to return the child home or secure a placement for the child with a fit and willing relative, legal guardian, or adoptive parent, including efforts through the use of search technology, such as social media, to find biological or adoptive family members for the child.

(4) Ask the child about the desired permanency outcome for the child and document the child's response.

(5) Make a judicial determination explaining why, as of the date of the hearing, another planned permanent living arrangement is the best permanency plan for the child and provide compelling reasons why it continues to not be in the best interests of the child to:

(A) return home;

(B) be placed for adoption;



- (C) be placed with a legal guardian; or
- (D) be placed with a fit and willing relative.
- (6) Require the department to document or provide testimony regarding the steps the department is taking to ensure that:
 - (A) the child's foster family home, group home, secure private facility, or child caring institution is following the reasonable and prudent parent standard; and
 - (B) the child has regular, ongoing opportunities to engage in age or developmentally appropriate activities, including consulting with the child in an age appropriate manner about the opportunities for the child to participate in the activities.

(d) There is a rebuttable presumption that jurisdiction over the child in a child in need of services proceeding continues for not longer than twelve (12) months after the date of the original dispositional decree or twelve (12) months after the child in need of services was removed from the child's parent, guardian, or custodian, whichever occurs first. The state may rebut the presumption and show that jurisdiction should continue by proving that the objectives of the dispositional decree have not been accomplished, that a continuation of the decree with or without any modifications is necessary, and that it is in the child's best interests for the court to maintain its jurisdiction over the child. If the department does not sustain its burden for continued jurisdiction, the court shall:

- (1) direct the department to establish a permanency plan within thirty (30) days; or
- (2) discharge the child and the child's parent, guardian, or custodian.

The court may retain jurisdiction to the extent necessary to carry out any orders under subdivision (1)."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1310 as introduced.)

DEVON

Committee Vote: yeas 13, nays 0.

