



Reprinted
February 23, 2024

ENGROSSED HOUSE BILL No. 1369

DIGEST OF HB 1369 (Updated February 22, 2024 4:32 pm - DI 149)

Citations Affected: IC 31-9; IC 31-10; IC 31-34; IC 31-35.

Synopsis: Family and juvenile law matters. Amends the definition for "act of rape", only for the purposes of IC 31-35-3.5 (termination of parent-child relationship of an individual who committed an act of rape), to include child molestation and sexual misconduct with a minor. Provides that the department of child services or a court shall consider ensuring the child's safety to be the most important consideration in the
(Continued next page)

Effective: Upon passage.

McGuire, Jeter, Steuerwald, Goss-Reaves

(SENATE SPONSORS — BROWN L, KOCH, DERNULC, GLICK, BUCK,
RANDOLPH LONNIE M)

January 10, 2024, read first time and referred to Committee on Judiciary.
January 25, 2024, amended, reported — Do Pass.
January 29, 2024, read second time, amended, ordered engrossed.
January 30, 2024, engrossed. Read third time, passed. Yeas 94, nays 0.

SENATE ACTION

February 7, 2024, read first time and referred to Committee on Judiciary.
February 15, 2024, reported favorably — Do Pass.
February 19, 2024, read second time, ordered engrossed. Engrossed.
February 20, 2024, returned to second reading.
February 22, 2024, re-read second time, amended, ordered engrossed.

EH 1369—LS 7031/DI 119



Digest Continued

determination of a child's best interests under family and juvenile law. Provides that there is a rebuttable presumption that a child is a child in need of services if the state establishes that the child lives in the same household as an adult who was a perpetrator of a child fatality or near fatality that may have been the result of abuse, abandonment, or neglect. Adds sexual misconduct with a minor as an offense that may be alleged in a petition to terminate the parent-child relationship when a child is conceived as a result of the offense. Amends the circumstances under which a court may terminate the parent-child relationship with regard to a child in need of services.

EH 1369—LS 7031/DI 119



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February 23, 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.

ENGROSSED HOUSE BILL No. 1369

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 31-9-2-0.9, AS ADDED BY P.L.64-2016,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: Sec. 0.9. "Act of rape", for purposes of
4 IC 31-35-3.5, means an act described in:
5 (1) IC 35-42-4-1; or
6 (2) ~~IC 35-42-4-3(a)~~ that:
7 (A) is committed by using or threatening the use of deadly
8 force or while armed with a deadly weapon;
9 (B) results in serious bodily injury; or
10 (C) is facilitated by furnishing the victim, without the victim's
11 knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a
12 controlled substance (as defined in IC 35-48-1-9) or knowing
13 that the victim was furnished with the drug or controlled
14 substance without the victim's knowledge.
15 (2) IC 35-42-4-3; or
16 (3) IC 35-42-4-9.
17 SECTION 2. IC 31-10-2-1.5 IS ADDED TO THE INDIANA CODE

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1 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE
 2 UPON PASSAGE]: **Sec. 1.5. For purposes of IC 31-19, IC 31-28,**
 3 **IC 31-34, and IC 31-35, the department or a court shall consider**
 4 **ensuring the child's safety to be the most important consideration**
 5 **in the determination of a child's best interests under this title.**

6 SECTION 3. IC 31-34-12-4.5, AS AMENDED BY P.L.71-2018,
 7 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 8 UPON PASSAGE]: Sec. 4.5. (a) There is a rebuttable presumption that
 9 a child is a child in need of services if the state establishes that the
 10 child lives in the same household as an adult who:

- 11 (1) committed an offense described in IC 31-34-1-2,
 12 IC 31-34-1-3, or IC 31-34-1-3.5 against a child and the offense
 13 resulted in a conviction or a judgment under IC 31-34-11-2; ~~or~~
 14 (2) has been charged with an offense described in IC 31-34-1-2,
 15 IC 31-34-1-3, or IC 31-34-1-3.5 against a child and is awaiting
 16 trial; **or**
 17 **(3) was a perpetrator of a child fatality or near fatality as**
 18 **described by IC 31-33-18-1.5.**

19 (b) The following may not be used as grounds to rebut the
 20 presumption under subsection (a):

- 21 (1) The child who is the victim of the offense described in
 22 IC 31-34-1-2 or IC 31-34-1-3 is not genetically related to the adult
 23 who committed the act, but the child presumed to be the child in
 24 need of services under this section is genetically related to the
 25 adult who committed the act.
 26 (2) The child who is the victim of the offense described in
 27 IC 31-34-1-2 or IC 31-34-1-3 differs in age from the child
 28 presumed to be the child in need of services under this section.

29 (c) This section does not affect the ability to take a child into
 30 custody or emergency custody under IC 31-34-2 if the act of taking the
 31 child into custody or emergency custody is not based upon a
 32 presumption established under this section. However, if the
 33 presumption established under this section is the sole basis for taking
 34 a child into custody or emergency custody under IC 31-34-2, the court
 35 first must find cause to take the child into custody or emergency
 36 custody following a hearing in which the parent, guardian, or custodian
 37 of the child is accorded the rights described in IC 31-34-4-6(a)(2)
 38 through IC 31-34-4-6(a)(5).

39 SECTION 4. IC 31-35-2-4, AS AMENDED BY P.L.258-2019,
 40 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 41 UPON PASSAGE]: Sec. 4. (a) A petition to terminate the parent-child
 42 relationship involving a **child adjudicated as a delinquent child** or a



1 child in need of services may be signed and filed with the juvenile or
2 probate court by any of the following:

- 3 (1) The attorney for the department.
- 4 (2) The child's court appointed special advocate.
- 5 (3) The child's guardian ad litem.

6 ~~(b) The A petition must meet the following requirements: filed~~
7 **under subsection (a)**

8 ~~(1) The petition~~ must be entitled "In the Matter of the Termination
9 of the Parent-Child Relationship of _____, a child, and
10 _____, the child's parent (or parents)".

11 ~~(2) The (c) A petition filed under subsection (a)~~ must allege:

- 12 **(1) the existence of one (1) or more of the circumstances**
- 13 **described in subsection (d);**
- 14 **(2) that there is a satisfactory plan for care and treatment of**
- 15 **the child; and**
- 16 **(3) that termination of the parent-child relationship is in the**
- 17 **child's best interests.**

18 **(d) A petition filed under subsection (a) must allege the existence**
19 **of one (1) or more of the following circumstances:**

20 ~~(A) (1) That one (1) of the following is true:~~

21 ~~(i) The child has been removed from the parent for at least~~
22 ~~six (6) months under a dispositional decree.~~

23 ~~(ii) a court has entered a finding under IC 31-34-21-5.6 that~~
24 ~~reasonable efforts for family preservation or reunification~~
25 ~~are not required, including a description of the court's~~
26 ~~finding, the date of the finding, and the manner in which the~~
27 ~~finding was made.~~

28 ~~(iii) (2) That:~~

29 ~~(A) the child has been removed from the parent and has been~~
30 ~~under the supervision of a local office or probation department~~
31 ~~for at least fifteen (15) months of the most recent twenty-two~~
32 ~~(22) months, beginning with the date the child is removed~~
33 ~~from the home as a result of the child being alleged to be a~~
34 ~~child in need of services or a delinquent child; and~~

35 ~~(B) that one (1) of the following is true: despite the~~
36 ~~department's reasonable efforts to preserve and reunify~~
37 ~~the child's family under IC 31-34-21-5.5, the parent has~~
38 ~~been unable to remedy the circumstances that resulted in~~
39 ~~the child being placed in care outside the parent's home.~~

40 ~~(i) (3) That~~ there is a reasonable probability that the conditions
41 that resulted in the child's removal or the reasons for placement
42 outside the home of the parents will not be remedied.



- 1 (ii) **(4) That** there is a reasonable probability that the continuation
 2 of the parent-child relationship poses a threat to the well-being,
 3 **safety, physical health, or life** of the child.
- 4 (iii) **(5) That** the child has, on two (2) separate occasions, been
 5 adjudicated a child in need of services.
- 6 ~~(C)~~ that termination is in the best interests of the child; and
 7 ~~(D)~~ that there is a satisfactory plan for the care and treatment
 8 of the child.
- 9 **(6) That:**
- 10 **(A) at least ninety (90) days have passed since the filing of**
 11 **the petition alleging that the child is a child in need of**
 12 **services; and**
- 13 **(B) the identity or location of the parent is unknown**
 14 **despite reasonable efforts having been made to identify or**
 15 **locate the parent.**
- 16 **(7) That the parent:**
- 17 **(A) failed to substantially comply with the child's**
 18 **dispositional decree for a period of at least twelve (12)**
 19 **months following the child's:**
- 20 **(i) removal from the parent's home under IC 31-34-2; or**
 21 **(ii) adjudication as a child in need of services;**
 22 **whichever occurred earlier, unless the parent's failure to**
 23 **substantially comply with the child's dispositional decree**
 24 **was due to the failure of the department to make**
 25 **reasonable efforts to preserve and reunify the child's**
 26 **family under IC 31-34-21-5.5; or**
- 27 **(B) is unlikely or unable to substantially comply with the**
 28 **child's dispositional decree.**
- 29 **(8) That the parent is incarcerated and one (1) or more of the**
 30 **following is true:**
- 31 **(A) The parent is expected to remain incarcerated for a**
 32 **significant portion of the remaining time during which the**
 33 **child is less than eighteen (18) years of age.**
- 34 **(B) The parent is a sexually violent predator (as defined by**
 35 **IC 35-38-1-7.5).**
- 36 **(9) That the parent:**
- 37 **(A) has a history of extensive, abusive, and chronic use of**
 38 **alcohol or a controlled substance that renders the parent**
 39 **incapable of caring for the child; and**
- 40 **(B) has refused or failed to complete available treatment**
 41 **for the alcohol or controlled substance use during the two**
 42 **(2) year period immediately preceding the filing date of the**



- 1 petition under subsection (a).
 2 **(10) That:**
 3 **(A) a test administered at the child's birth that indicated**
 4 **that the child's blood, urine, or meconium contained any**
 5 **amount of alcohol or a controlled substance, or metabolites**
 6 **of such substances, the presence of which was not the**
 7 **result of medical treatment administered to the mother or**
 8 **the child; and**
 9 **(B) the parent:**
 10 **(i) is the biological mother of at least one (1) other child**
 11 **who was adjudicated a child in need of services after a**
 12 **finding of harm to the child's health or welfare due to**
 13 **exposure to alcohol or a controlled substance; and**
 14 **(ii) had the opportunity to participate in substance abuse**
 15 **treatment following the finding under item (i).**
 16 **(11) That the child was conceived as a result of:**
 17 **(A) an offense under IC 35-42-3.5 (human and sexual**
 18 **trafficking);**
 19 **(B) rape (IC 35-42-4-1);**
 20 **(C) child molestation (IC 35-42-4-3);**
 21 **(D) sexual misconduct with a minor (IC 35-42-4-9); or**
 22 **(E) an offense committed in another jurisdiction the**
 23 **elements of which are substantially similar to the elements**
 24 **of an offense described in clause (A), (B), (C), or (D);**
 25 **committed by the biological parent of the child whose**
 26 **parent-child relationship with the child is the subject of the**
 27 **petition.**
 28 **(12) That the parent is required to register as a sex or violent**
 29 **offender under IC 11-8-8.**
 30 ~~(e)~~ **(e)** If the department intends to file a motion to dismiss under
 31 section 4.5 of this chapter, the petition must indicate whether at least
 32 one (1) of the factors listed in section 4.5(d)(1) through 4.5(d)(4) of this
 33 chapter applies and specify each factor that would apply as the basis for
 34 filing a motion to dismiss the petition.
 35 ~~(e)~~ **(f)** At the time the petitioner files ~~the verified~~ a petition
 36 ~~described in subsection (b) under this section~~ with the juvenile or
 37 probate court, the petitioner shall also file a:
 38 (1) copy of the order approving the permanency plan under
 39 IC 31-34-21-7 for the child; or
 40 (2) permanency plan for the child as described by
 41 IC 31-34-21-7.5.
 42 **SECTION 5. An emergency is declared for this act.**



COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1369, 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 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 31-9-2-0.9, AS ADDED BY P.L.64-2016, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 0.9. "Act of rape", for purposes of IC 31-35-3.5, means an act described in:

(1) IC 35-42-4-1; or

(2) ~~IC 35-42-4-3(a)~~ that:

(A) is committed by using or threatening the use of deadly force or while armed with a deadly weapon;

(B) results in serious bodily injury; or

(C) is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.

(2) IC 35-42-4-3; or

(3) IC 35-42-4-9."

Page 5, line 3, delete "or".

Page 5, between lines 3 and 4, begin a new line double block indented and insert:

"(D) sexual misconduct with a minor (IC 35-42-4-9); or".

Page 5, line 4, delete "(D)" and insert "(E)".

Page 5, line 6, delete "or (C);" and insert "(C), or (D);".

Page 5, after line 23, begin a new paragraph and insert:

"SECTION 5. An emergency is declared for this act."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1369 as introduced.)

JETER

Committee Vote: yeas 11, nays 0.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1369 be amended to read as follows:

Page 2, line 2, delete "The" and insert "**For purposes of IC 31-19, IC 31-28, IC 31-34, and IC 31-35, the**".

(Reference is to HB 1369 as printed January 25, 2024.)

MCGUIRE

COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred House Bill No. 1369, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is to HB 1369 as reprinted January 30, 2024.)

BROWN L, Chairperson

Committee Vote: Yeas 11, Nays 0

SENATE MOTION

Madam President: I move that Engrossed House Bill 1369, which is eligible for third reading, be returned to second reading for purposes of amendment.

BROWN L

SENATE MOTION

Madam President: I move that Engrossed House Bill 1369 be amended to read as follows:

Page 2, line 1, delete "JULY" and insert "UPON PASSAGE]:".

Page 2, line 2, delete "1, 2024]:".

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Page 2, line 8, delete "JULY 1, 2024]:" and insert "UPON PASSAGE]:".

Page 2, line 41, delete "JULY 1, 2024]:" and insert "UPON PASSAGE]:".

(Reference is to EHB 1369 as printed February 16, 2024.)

BROWN L

