

HOUSE BILL No. 1531

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-1.2-12-4; IC 31-33; IC 31-34-15-4; IC 34-13-3-3.

Synopsis: DCS and the education community. Allows the department of child services (DCS) to interview a child at the child's school without parental consent if: (1) the DCS employee presents his or her credentials or other proof of employment for inspection; and (2) there is written proof of exigent circumstances. Allows an action against the individual or entity responsible for the intentional disclosure of the identity of an individual who reports child abuse or neglect. Requires that the DCS provide assurances that the child's school, or its representative, has been invited to participate in the case plan process. Prohibits a governmental entity or employee from asserting immunity if confidentiality about an individual who makes a report of child abuse or neglect is intentionally breached.

Effective: July 1, 2021.

DeVon, Cook, Rowray

January 14, 2021, read first time and referred to Committee on Family, Children and Human Affairs.



First Regular Session of the 122nd General Assembly (2021)

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 2020 Regular Session of the General Assembly.

HOUSE BILL No. 1531

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 5-1.2-12-4, AS ADDED BY P.L.189-2018,
2 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2021]: Sec. 4. (a) The authority shall do the following under
4 this chapter:
5 (1) Be responsible for the management of all aspects of the
6 Indiana brownfields program.
7 (2) Prepare and provide program information.
8 (3) Negotiate the negotiable aspects of each financial assistance
9 agreement.
10 (4) Sign each financial assistance agreement.
11 (5) Review each proposed project and financial assistance
12 agreement to determine if the project meets the credit, economic,
13 or fiscal criteria established by guidelines of the authority.
14 (6) Periodically inspect or cause to be inspected projects to
15 determine compliance with this chapter.
16 (7) Conduct or cause to be conducted an evaluation concerning
17 the financial ability of a private individual or entity, nonprofit



- 1 entity, or political subdivision to:
- 2 (A) pay a loan or other financial assistance and other
- 3 obligations evidencing loans or other financial assistance, if
- 4 required to be paid; and
- 5 (B) otherwise comply with terms of the financial assistance
- 6 agreement.
- 7 (8) Evaluate or cause to be evaluated the technical aspects of the
- 8 private individual or entity, nonprofit entity, or political
- 9 subdivision's:
- 10 (A) environmental assessment of potential brownfield
- 11 properties;
- 12 (B) proposed remediation; and
- 13 (C) remediation activities conducted on brownfield properties.
- 14 (9) Inspect or cause to be inspected remediation activities
- 15 conducted under this chapter.
- 16 (10) Act as a liaison to the United States Environmental
- 17 Protection Agency regarding the Indiana brownfields program.
- 18 (11) Be a point of contact for private entities, nonprofit entities,
- 19 and political subdivisions concerning questions about the Indiana
- 20 brownfields program.
- 21 (12) Enter into memoranda of understanding, as necessary, with
- 22 the department of environmental management and the budget
- 23 agency concerning the administration and management of the
- 24 Indiana brownfields fund and the Indiana brownfields program.
- 25 (b) The authority may do the following under this chapter:
- 26 (1) Undertake activities to make private environmental insurance
- 27 products available to encourage and facilitate the cleanup and
- 28 redevelopment of brownfield properties.
- 29 (2) Enter into agreements with private entities, nonprofit entities,
- 30 and political subdivisions to manage any of the following
- 31 conducted on brownfield properties:
- 32 (A) Environmental assessment activities.
- 33 (B) Environmental remediation activities.
- 34 (C) Demolition and clearance activities.
- 35 (c) The authority may:
- 36 (1) negotiate with;
- 37 (2) select; and
- 38 (3) contract with;
- 39 one (1) or more insurers to provide insurance products as described in
- 40 subsection (b)(1).
- 41 (d) The authority may:
- 42 (1) negotiate with;



- 1 (2) select; and
 2 (3) contract with;
 3 one (1) or more environmental consultants to undertake the activities
 4 described in subsection (b)(2) for the benefit of private entities,
 5 nonprofit entities, and political subdivisions.
- 6 (e) Notwithstanding IC 13-23, IC 13-24-1, and IC 13-25-4, the
 7 authority is not liable for any contamination addressed by the authority
 8 under an agreement under subsection (b)(2) unless existing
 9 contamination on the brownfield is exacerbated due to gross negligence
 10 or intentional misconduct by the authority.
- 11 (f) For purposes of subsection (e), reckless, willful, or wanton
 12 misconduct constitutes gross negligence.
- 13 (g) The authority is entitled to the same governmental immunity
 14 afforded a political subdivision under ~~IC 34-13-3-3(22)~~
 15 **IC 34-13-3-3(a)(22)** for any act taken to investigate or remediate
 16 hazardous substances, petroleum, or other pollutants associated with a
 17 brownfield under an agreement under subsection (b)(2).
- 18 (h) This chapter does not require the authority to provide a loan or
 19 other financial assistance to any private individual or entity, nonprofit
 20 entity, or political subdivision to the extent the authority determines
 21 that providing the loan or other financial assistance is not in the best
 22 interests of the Indiana brownfields program and the authority.
- 23 SECTION 2. IC 31-33-8-7, AS AMENDED BY P.L.183-2017,
 24 SECTION 37, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 25 JULY 1, 2021]: Sec. 7. (a) The department's assessment, to the extent
 26 that is reasonably possible, must include the following:
- 27 (1) The nature, extent, and cause of the known or suspected child
 28 abuse or neglect.
 - 29 (2) The identity of the person allegedly responsible for the child
 30 abuse or neglect.
 - 31 (3) The names and conditions of other children in the home.
 - 32 (4) An evaluation of the parent, guardian, custodian, or person
 33 responsible for the care of the child.
 - 34 (5) The home environment and the relationship of the child to the
 35 parent, guardian, or custodian or other persons responsible for the
 36 child's care.
 - 37 (6) All other data considered pertinent.
- 38 (b) The assessment may include the following:
- 39 (1) A visit to the child's home.
 - 40 (2) An interview with the subject child.
 - 41 (3) A physical, psychological, or psychiatric examination of any
 42 child in the home.



- 1 (c) If:
- 2 (1) admission to the home, the school, or any other place that the
- 3 child may be; or
- 4 (2) permission of the parent, guardian, custodian, or other persons
- 5 responsible for the child for the physical, psychological, or
- 6 psychiatric examination;
- 7 under subsection (b) cannot be obtained, the juvenile court, upon good
- 8 cause shown, shall follow the procedures under IC 31-32-12.
- 9 (d) If a custodial parent, a guardian, or a custodian of a child refuses
- 10 to allow the department to interview the child after the caseworker has
- 11 attempted to obtain the consent of the custodial parent, guardian, or
- 12 custodian to interview the child, the department may petition a court to
- 13 order the custodial parent, guardian, or custodian to make the child
- 14 available to be interviewed by the caseworker.
- 15 (e) If the court finds that:
- 16 (1) a custodial parent, a guardian, or a custodian has been
- 17 informed of the hearing on a petition described under subsection
- 18 (d); and
- 19 (2) the department has made reasonable and unsuccessful efforts
- 20 to obtain the consent of the custodial parent, guardian, or
- 21 custodian to interview the child;
- 22 the court shall specify in the order the efforts the department made to
- 23 obtain the consent of the custodial parent, guardian, or custodian and
- 24 may grant the motion to interview the child, either with or without the
- 25 custodial parent, guardian, or custodian being present.
- 26 **(f) If the department requests to interview a child at the child's**
- 27 **school, the school shall grant access to the department to interview**
- 28 **the child if:**
- 29 **(1) the department employee presents his or her credentials as**
- 30 **a department case worker, or other proof of employment with**
- 31 **the department, for inspection upon arrival at the school; and**
- 32 **(2) written proof of exigent circumstances exists per the**
- 33 **department manual making parental consent to interview the**
- 34 **child unnecessary.**
- 35 ~~(f)~~ (g) If a parent, guardian, or custodian of a child who is the
- 36 subject of a substantiated investigation of abuse or neglect is an active
- 37 duty member of the military, the department shall notify the United
- 38 States Department of Defense Family Advocacy Program of the
- 39 assessment concerning the child of the active duty member of the
- 40 military upon request.
- 41 SECTION 3. IC 31-33-18-1, AS AMENDED BY P.L.119-2013,
- 42 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



1 JULY 1, 2021]: Sec. 1. (a) Except as provided in section 1.5 of this
2 chapter, the following are confidential:

3 (1) Reports made under this article (or IC 31-6-11 before its
4 repeal).

5 (2) Any other information obtained, reports written, or
6 photographs taken concerning the reports in the possession of:

7 (A) the division of family resources;

8 (B) the local office;

9 (C) the department; or

10 (D) the department of child services ombudsman established
11 by IC 4-13-19-3.

12 (b) Except as provided in section 1.5 of this chapter, all records held
13 by:

14 (1) the division of family resources;

15 (2) a local office;

16 (3) the department;

17 (4) a local child fatality review team established under
18 IC 16-49-2;

19 (5) the statewide child fatality review committee established
20 under IC 16-49-4; or

21 (6) the department of child services ombudsman established by
22 IC 4-13-19-3;

23 regarding the death of a child determined to be a result of abuse,
24 abandonment, or neglect are confidential and may not be disclosed.

25 **(c) An individual who makes a report under IC 31-33-5 or**
26 **IC 31-33-7, or both, and whose identity is subsequently**
27 **intentionally disclosed may bring an action against the individual**
28 **or entity responsible for the intentional disclosure. A plaintiff who**
29 **prevails in an action under this subsection is entitled to actual**
30 **damages and attorney's fees.**

31 SECTION 4. IC 31-34-15-4, AS AMENDED BY P.L.258-2019,
32 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
33 JULY 1, 2021]: Sec. 4. A child's case plan must be set out in a form
34 prescribed by the department that meets the specifications set by 45
35 CFR 1356.21. The case plan must include a description and discussion
36 of the following:

37 (1) A permanent plan, or two (2) permanent plans if concurrent
38 planning, for the child and an estimated date for achieving the
39 goal of the plan or plans.

40 (2) The appropriate placement for the child based on the child's
41 special needs and best interests.

42 (3) The least restrictive family-like setting that is close to the



- 1 home of the child's parent, custodian, or guardian if out-of-home
 2 placement is recommended. If an out-of-home placement is
 3 appropriate, the local office or department shall consider whether
 4 a child in need of services should be placed with the child's
 5 suitable and willing blood or adoptive relative caretaker,
 6 including a grandparent, an aunt, an uncle, or an adult sibling,
 7 before considering other out-of-home placements for the child.
 8 (4) Family services recommended for the child, parent, guardian,
 9 or custodian.
 10 (5) Efforts already made to provide family services to the child,
 11 parent, guardian, or custodian.
 12 (6) Efforts that will be made to provide family services that are
 13 ordered by the court.
 14 (7) If the parent of a child is incarcerated:
 15 (A) the services and treatment available to the parent at the
 16 facility at which the parent is incarcerated; and
 17 (B) how the parent and the child may be afforded visitation
 18 opportunities, unless visitation with the parent is not in the
 19 best interests of the child.
 20 (8) A plan for ensuring the educational stability of the child while
 21 in foster care that includes assurances that the:
 22 (A) placement of the child in foster care considers the
 23 appropriateness of the current educational setting of the child
 24 and the proximity to the school where the child is presently
 25 enrolled; ~~and~~
 26 (B) department has coordinated with local educational
 27 agencies to ensure:
 28 (i) the child remains in the school where the child is enrolled
 29 at the time of removal; or
 30 (ii) immediate, appropriate enrollment of the child in a
 31 different school, including arrangements for the transfer of
 32 the child's school records to the new school, if remaining in
 33 the same school is not in the best interests of the child; **and**
 34 **(C) child's school, or its representative, has been invited to**
 35 **participate in the case plan process.**
 36 (9) Any age appropriate activities that the child is interested in
 37 pursuing.
 38 (10) If the case plan is for a child in foster care who is at least
 39 fourteen (14) years of age, the following:
 40 (A) A document that describes the rights of the child with
 41 respect to:
 42 (i) education, health, visitation, and court participation;



- 1 (ii) the right to be provided with the child's medical
 2 documents and other medical information; and
 3 (iii) the right to stay safe and avoid exploitation.
 4 (B) A signed acknowledgment by the child that the:
 5 (i) child has been provided with a copy of the document
 6 described in clause (A); and
 7 (ii) rights contained in the document have been explained to
 8 the individual in an age appropriate manner.
 9 (11) Any efforts made by the department to enable the child's
 10 school to provide appropriate support to and protect the safety of
 11 the child, if, in developing the case plan, the department
 12 coordinates with officials in the child's school to enable the school
 13 to provide appropriate support to and protect the safety of the
 14 child.

15 SECTION 5. IC 34-13-3-3, AS AMENDED BY P.L.65-2016,
 16 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 17 JULY 1, 2021]: Sec. 3. (a) A governmental entity or an employee
 18 acting within the scope of the employee's employment is not liable if
 19 a loss results from the following:

- 20 (1) The natural condition of unimproved property.
 21 (2) The condition of a reservoir, dam, canal, conduit, drain, or
 22 similar structure when used by a person for a purpose that is not
 23 foreseeable.
 24 (3) The temporary condition of a public thoroughfare or extreme
 25 sport area that results from weather.
 26 (4) The condition of an unpaved road, trail, or footpath, the
 27 purpose of which is to provide access to a recreation or scenic
 28 area.
 29 (5) The design, construction, control, operation, or normal
 30 condition of an extreme sport area, if all entrances to the extreme
 31 sport area are marked with:
 32 (A) a set of rules governing the use of the extreme sport area;
 33 (B) a warning concerning the hazards and dangers associated
 34 with the use of the extreme sport area; and
 35 (C) a statement that the extreme sport area may be used only
 36 by persons operating extreme sport equipment.
 37 This subdivision shall not be construed to relieve a governmental
 38 entity from liability for the continuing duty to maintain extreme
 39 sports areas in a reasonably safe condition.
 40 (6) The initiation of a judicial or an administrative proceeding.
 41 (7) The performance of a discretionary function; however, the
 42 provision of medical or optical care as provided in IC 34-6-2-38



- 1 shall be considered as a ministerial act.
- 2 (8) The adoption and enforcement of or failure to adopt or
- 3 enforce:
- 4 (A) a law (including rules and regulations); or
- 5 (B) in the case of a public school or charter school, a policy;
- 6 unless the act of enforcement constitutes false arrest or false
- 7 imprisonment.
- 8 (9) An act or omission performed in good faith and without
- 9 malice under the apparent authority of a statute which is invalid
- 10 if the employee would not have been liable had the statute been
- 11 valid.
- 12 (10) The act or omission of anyone other than the governmental
- 13 entity or the governmental entity's employee.
- 14 (11) The issuance, denial, suspension, or revocation of, or failure
- 15 or refusal to issue, deny, suspend, or revoke any permit, license,
- 16 certificate, approval, order, or similar authorization, where the
- 17 authority is discretionary under the law.
- 18 (12) Failure to make an inspection, or making an inadequate or
- 19 negligent inspection, of any property, other than the property of
- 20 a governmental entity, to determine whether the property
- 21 complied with or violates any law or contains a hazard to health
- 22 or safety.
- 23 (13) Entry upon any property where the entry is expressly or
- 24 impliedly authorized by law.
- 25 (14) Misrepresentation if unintentional.
- 26 (15) Theft by another person of money in the employee's official
- 27 custody, unless the loss was sustained because of the employee's
- 28 own negligent or wrongful act or omission.
- 29 (16) Injury to the property of a person under the jurisdiction and
- 30 control of the department of correction if the person has not
- 31 exhausted the administrative remedies and procedures provided
- 32 by section 7 of this chapter.
- 33 (17) Injury to the person or property of a person under supervision
- 34 of a governmental entity and who is:
- 35 (A) on probation; or
- 36 (B) assigned to an alcohol and drug services program under
- 37 IC 12-23, a minimum security release program under
- 38 IC 11-10-8, a pretrial conditional release program under
- 39 IC 35-33-8, or a community corrections program under
- 40 IC 11-12.
- 41 (18) Design of a highway (as defined in IC 9-13-2-73), toll road
- 42 project (as defined in IC 8-15-2-4(4)), tollway (as defined in



1 IC 8-15-3-7), or project (as defined in IC 8-15.7-2-14) if the
2 claimed loss occurs at least twenty (20) years after the public
3 highway, toll road project, tollway, or project was designed or
4 substantially redesigned; except that this subdivision shall not be
5 construed to relieve a responsible governmental entity from the
6 continuing duty to provide and maintain public highways in a
7 reasonably safe condition.

8 (19) Development, adoption, implementation, operation,
9 maintenance, or use of an enhanced emergency communication
10 system.

11 (20) Injury to a student or a student's property by an employee of
12 a school corporation if the employee is acting reasonably under a:

13 (A) discipline policy adopted under IC 20-33-8-12; or

14 (B) restraint and seclusion plan adopted under IC 20-20-40-14.

15 (21) An act or omission performed in good faith under the
16 apparent authority of a court order described in IC 35-46-1-15.1
17 or IC 35-46-1-15.3 that is invalid, including an arrest or
18 imprisonment related to the enforcement of the court order, if the
19 governmental entity or employee would not have been liable had
20 the court order been valid.

21 (22) An act taken to investigate or remediate hazardous
22 substances, petroleum, or other pollutants associated with a
23 brownfield (as defined in IC 13-11-2-19.3) unless:

24 (A) the loss is a result of reckless conduct; or

25 (B) the governmental entity was responsible for the initial
26 placement of the hazardous substances, petroleum, or other
27 pollutants on the brownfield.

28 (23) The operation of an off-road vehicle (as defined in
29 IC 14-8-2-185) by a nongovernmental employee, or by a
30 governmental employee not acting within the scope of the
31 employment of the employee, on a public highway in a county
32 road system outside the corporate limits of a city or town, unless
33 the loss is the result of an act or omission amounting to:

34 (A) gross negligence;

35 (B) willful or wanton misconduct; or

36 (C) intentional misconduct.

37 This subdivision shall not be construed to relieve a governmental
38 entity from liability for the continuing duty to maintain highways
39 in a reasonably safe condition for the operation of motor vehicles
40 licensed by the bureau of motor vehicles for operation on public
41 highways.

42 (24) Any act or omission rendered in connection with a request,



1 investigation, assessment, or opinion provided under
2 IC 36-9-28.7.

3 **(b) This section shall not be construed to relieve a governmental**
4 **entity or employee from liability for the continuing duty to**
5 **maintain the confidentiality, under IC 31-33-18-1, of an individual**
6 **who reports child abuse or neglect under IC 31-33-5 or IC 31-33-7,**
7 **or both.**

