

First Regular Session of the 123rd General Assembly (2023)

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 2022 Regular Session of the General Assembly.

## HOUSE ENROLLED ACT No. 1560

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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:*

SECTION 1. IC 31-19-2-2, AS AMENDED BY P.L.203-2021, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 2. (a) Except as provided in subsection (b), an individual who seeks to adopt a child less than eighteen (18) years of age must, by attorney of record, file a petition for adoption with the clerk of the court having probate jurisdiction in the county in which:

- (1) the petitioner for adoption resides;
- (2) a licensed child placing agency or governmental agency having custody of the child is located;
- (3) the attorney maintains an office; or
- (4) the child resides.

(b) A petition for adoption of a child less than eighteen (18) years of age may be filed with the clerk of a court having probate jurisdiction in any county in Indiana if either of the following is filed with the petition:

- (1) A written consent to the adoption from each individual whose consent to the adoption is required under IC 31-19-9 that:
  - (A) is executed by the individual in compliance with IC 31-19-9 not less than thirty (30) days before the petition for adoption is filed; and
  - (B) is not subject to a motion to withdraw consent under

**HEA 1560 — Concur**



IC 31-19-10 filed by the individual less than ~~thirty (30)~~ **fifteen (15)** days after the consent is executed.

(2) A certified copy of a court order terminating the parental rights of each parent whose consent to the child's adoption is required under IC 31-19-9.

(c) The county in which the petition for adoption may be filed is a matter of venue and not jurisdiction.

(d) Subject to IC 31-19-9-3, if an individual who files a petition for adoption of a child:

- (1) decides not to adopt the child; or
- (2) is unable to adopt the child;

the petition for adoption may be amended or a second petition may be filed in the same action to substitute another individual who intends to adopt the child as the petitioner for adoption.

(e) If an amended petition or second petition is filed as described in subsection (d):

- (1) the amended petition or second petition relates back to the date of the original petition; and
- (2) a required notice that was provided with regard to the original petition satisfies the same notice requirement for the purposes of the second or amended petition.

SECTION 2. IC 31-19-9-1, AS AMENDED BY P.L.128-2012, SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 1. (a) Except as otherwise provided in this chapter, a petition to adopt a child who is less than eighteen (18) years of age may be granted only if written consent to adoption has been executed by the following:

- (1) Each ~~living~~ parent of a child born in wedlock, including a man who is presumed to be the child's biological father under IC 31-14-7-1(1) if the man is the biological or adoptive parent of the child.
- (2) The mother of a child born out of wedlock and the **biological** father of a ~~the~~ child ~~whose~~ **if the father's** paternity has been established by:
  - (A) a court proceeding other than the adoption proceeding, except as provided in IC 31-14-20-2; or
  - (B) a paternity affidavit executed under IC 16-37-2-2.1; unless the putative father gives implied consent to the adoption under section 15 of this chapter.
- (3) Each person, agency, or local office having lawful custody of the child whose adoption is being sought.
- (4) The court having jurisdiction of the custody of the child if the



legal guardian or custodian of the person of the child is not empowered to consent to the adoption.

(5) The child to be adopted if the child is more than fourteen (14) years of age.

(6) The spouse of the child to be adopted if the child is married.

**(7) A man who is not the biological father of the child, if:**

**(A) the man has proven to the court that it is in the best interest of the child to be adopted to require his consent; and**

**(B) the paternity of the child has been established by:**

**(i) a court proceeding other than the adoption proceeding, except as provided in IC 31-14-20-2; or**

**(ii) a paternity affidavit executed under IC 16-37-2-2.1;**

**unless the putative father gives implied consent to the adoption under section 15 of this chapter.**

(b) A parent who is less than eighteen (18) years of age may consent to an adoption without the concurrence of:

(1) the individual's parent or parents; or

(2) the guardian of the individual's person;

unless the court, in the court's discretion, determines that it is in the best interest of the child to be adopted to require the concurrence.

SECTION 3. IC 31-19-9-2, AS AMENDED BY P.L.128-2012, SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 2. (a) The consent to adoption may be executed **or acknowledged** at any time after the birth of the child, either in the presence of:

(1) the court, **in person or by video conferencing;**

(2) a notary public or other person authorized to take acknowledgments; or

(3) an authorized agent of:

(A) the department; or

(B) a licensed child placing agency.

(b) The child's mother may not execute a consent to adoption before the birth of the child.

(c) The child's father may execute a consent to adoption before the birth of the child if the consent to adoption:

(1) is in writing;

(2) is signed by the child's father in the presence of a notary public; and

(3) contains an acknowledgment that:

(A) the consent to adoption is irrevocable; and

(B) the child's father will not receive notice of the adoption



proceedings.

(d) A child's father who consents to the adoption of the child under subsection (c) may not challenge or contest the child's adoption.

(e) Except as provided in subsection (f) or (g), a person who executes a written consent to the adoption of a child may not execute a second or subsequent written consent to have another person adopt the child unless one (1) or more of the following apply:

- (1) Each original petitioner provides a written statement that the petitioner is not adopting the child.
- (2) The person consenting to the adoption has been permitted to withdraw the first consent to adoption under IC 31-19-10.
- (3) The court dismisses the petition for adoption filed by the original petitioner or petitioners for adoption based upon a showing, by clear and convincing evidence, that it is not in the best interests of the child that the petition for adoption be granted.
- (4) The court denies the petition to adopt the child filed by the original petitioner or petitioners for adoption.

(f) The department may execute more than one (1) written consent to the adoption of a child if the department determines that the execution of more than one (1) written consent is in the best interests of the child.

(g) The parents of a child who is a ward of the department may execute a second or subsequent consent if:

- (1) the court with jurisdiction over the child in need of services determines that adoption by the person to whom consents were originally signed is not in the child's best interest; or
- (2) if the child's placement with the person who has petitioned or intends to petition to adopt the child is disrupted.

SECTION 4. IC 31-19-9-8, AS AMENDED BY P.L.142-2020, SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 8. (a) Consent to adoption, which may be required under section 1 of this chapter, is not required from any of the following:

- (1) A parent or parents if the child is adjudged to have been abandoned or deserted for at least six (6) months immediately preceding the date of the filing of the petition for adoption.
- (2) A parent of a child in the custody of another person if for a period of at least one (1) year the parent:
  - (A) fails without justifiable cause to communicate significantly with the child when able to do so; or
  - (B) knowingly fails to provide for the care and support of the child when able to do so as required by law or judicial decree.



- (3) The biological father of a child born out of wedlock whose paternity has not been established:
- (A) by a court proceeding other than the adoption proceeding;
  - or
  - (B) by executing a paternity affidavit under IC 16-37-2-2.1.
- (4) The biological father of a child born out of wedlock who was conceived as a result of:
- (A) a rape for which the father was convicted under IC 35-42-4-1;
  - (B) child molesting (IC 35-42-4-3);
  - (C) sexual misconduct with a minor (IC 35-42-4-9); or
  - (D) incest (IC 35-46-1-3).
- (5) The putative father of a child born out of wedlock if the putative father's consent to adoption is irrevocably implied under section 15 of this chapter.
- (6) The biological father of a child born out of wedlock if the:
- (A) father's paternity is established after the filing of a petition for adoption in a court proceeding or by executing a paternity affidavit under IC 16-37-2-2.1; and
  - (B) father is required to but does not register with the putative father registry established by IC 31-19-5 within the period required by IC 31-19-5-12.
- (7) A parent who has relinquished the parent's right to consent to adoption as provided in this chapter.
- (8) A parent after the parent-child relationship has been terminated under IC 31-35 (or IC 31-6-5 before its repeal).
- (9) A parent judicially declared incompetent or mentally defective if the court dispenses with the parent's consent to adoption.
- (10) A legal guardian or lawful custodian of the person to be adopted who has failed to consent to the adoption for reasons found by the court not to be in the best interests of the child.
- (11) A parent if:
- (A) a petitioner for adoption proves by clear and convincing evidence that the parent is unfit to be a parent; and
  - (B) the best interests of the child sought to be adopted would be served if the court dispensed with the parent's consent.
- (12) A child's biological father who denies paternity of the child before or after the birth of the child if the denial of paternity:
- (A) is in writing;
  - (B) is signed by the child's father in the presence of a notary public; and
  - (C) contains an acknowledgment that:



- (i) the denial of paternity is irrevocable; and
- (ii) the child's father will not receive notice of adoption proceedings.

A child's father who denies paternity of the child under this subdivision may not challenge or contest the child's adoption.

**(13) A deceased person.**

(b) If a parent has made only token efforts to support or to communicate with the child the court may declare the child abandoned by the parent.

SECTION 5. IC 31-19-9-12, AS AMENDED BY P.L.203-2021, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 12. A putative father's consent to adoption is irrevocably implied without further court action if the putative father:

- (1) fails to file a motion to contest the adoption in accordance with IC 31-19-10 within ~~thirty (30)~~ **fifteen (15)** days after service of notice under IC 31-19-4 in the court in which the adoption is pending;
- (2) files a motion to contest the adoption under IC 31-19-10 and the motion is dismissed by the court under IC 31-19-10-1.2(g) or is otherwise denied by the court;
- (3) having filed a paternity action under IC 31-14 or in any other jurisdiction, fails to establish paternity in the action; or
- (4) is required to but fails to register with the putative father registry established by IC 31-19-5 within the period under IC 31-19-5-12.

SECTION 6. IC 31-19-9-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 15. (a) The putative father's consent to adoption of the child is irrevocably implied without further court action if the father:

- (1) fails to file a paternity action:
  - (A) under IC 31-14; or
  - (B) in a court located in another state that is competent to obtain jurisdiction over the paternity action;
    - not more than ~~thirty (30)~~ **fifteen (15)** days after receiving actual notice under IC 31-19-3 of the mother's intent to proceed with an adoptive placement of the child, regardless of whether the child is born before or after the expiration of the ~~thirty (30)~~ **fifteen (15)** day period; or
- (2) files a paternity action:
  - (A) under IC 31-14; or
  - (B) in a court located in another state that is competent to obtain jurisdiction over the paternity action;



during the ~~thirty (30)~~ **fifteen (15)** day period prescribed by subdivision (1) and fails to establish paternity in the paternity proceeding under IC 31-14 or the laws applicable to a court of another state when the court obtains jurisdiction over the paternity action.

(b) This section does not prohibit a putative father who meets the requirements of section 17(b) of this chapter from establishing paternity of the child.

SECTION 7. IC 31-19-9-18, AS AMENDED BY P.L.203-2021, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 18. (a) This section does not apply to the consent of an agency or local office that is served with notice under IC 31-19-4.5 and has lawful custody of a child whose adoption is being sought.

(b) The consent of a person who is served with notice under IC 31-19-4.5 to adoption is irrevocably implied without further court action if the person:

- (1) fails to file a motion to contest the adoption under IC 31-19-10 not later than ~~thirty (30)~~ **fifteen (15)** days after service of notice under IC 31-19-4.5; or
- (2) files a motion to contest the adoption under IC 31-19-10 and the motion is dismissed by the court under IC 31-19-10-1.2(g) or is otherwise denied by the court.

SECTION 8. IC 31-19-10-1, AS AMENDED BY P.L.203-2021, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 1. (a) Except as provided in subsection (c), only a person entitled to notice of adoption under IC 31-19-4 or IC 31-19-4.5 may contest an adoption.

(b) A person contesting an adoption must file a motion to contest the adoption in writing with the court in which the petition for adoption is filed not later than ~~thirty (30)~~ **fifteen (15)** days after service of notice of the pending adoption. The motion must set forth the basis on which the person is contesting the adoption.

(c) A person seeking to withdraw consent to an adoption must file a motion to withdraw consent to the adoption in writing with the court in which the petition for adoption is filed. The motion must set forth the basis on which the person is seeking to withdraw consent.

SECTION 9. IC 31-19-10-3, AS AMENDED BY P.L.146-2007, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 3. (a) A consent to adoption may be withdrawn not later than ~~thirty (30)~~ **fifteen (15)** days after consent to adoption is signed if:



- (1) the court finds, after notice and opportunity to be heard afforded to the petitioner for adoption, that the person seeking the withdrawal is acting in the best interest of the person sought to be adopted; and
  - (2) the court orders the withdrawal.
- (b) A consent to adoption may not be withdrawn after:
- (1) ~~thirty (30)~~ **fifteen (15)** days after the consent to adoption is signed;
  - (2) the person who signs the consent to adoption appears, in person or by telephonic communications or video conferencing, before a court in which the petition for adoption has been or will be filed and acknowledges that the person:
    - (A) understood the consequences of the signing of the consent to adoption;
    - (B) freely and voluntarily signed the consent to adoption; and
    - (C) believes that adoption is in the best interests of the person to be adopted; or
  - (3) the person who signs the consent to adoption appears, in person or by telephonic communications or video conferencing, before a court of competent jurisdiction if the parent is outside of Indiana and acknowledges that the person:
    - (A) understood the consequences of the signing of the consent to adoption;
    - (B) freely and voluntarily signed the consent to adoption; and
    - (C) believes that adoption is in the best interests of the person to be adopted;

whichever occurs first.

(c) If a hearing under this section is conducted by telephonic communication or video conferencing, the court shall ensure that the hearing is recorded.

SECTION 10. IC 31-19-10-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 5. **(a)** Whenever a motion to contest an adoption is filed, the court shall, before entering a decree under IC 31-19-11, set the matter for a hearing to contest the adoption.

**(b) A court shall expedite a hearing under this section.**

SECTION 11. IC 31-19-11-0.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: **Sec. 0.5. A court shall expedite all proceedings under this chapter.**





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Speaker of the House of Representatives

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President of the Senate

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President Pro Tempore

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

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