



January 17, 2014

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## SENATE BILL No. 27

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DIGEST OF SB 27 (Updated January 15, 2014 1:28 pm - DI 106)

**Citations Affected:** IC 31-17; IC 31-19.

**Synopsis:** Petitions for adoption. Prohibits granting an adoption while certain appeals are pending. Establishes procedural requirements that apply when an adoption is pending for a child who is the subject of a custody to parenting time action. (The introduced version of this bill was prepared by the commission on courts.)

**Effective:** July 1, 2014.

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### Zakas, Steele, Broden, Randolph

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January 7, 2014, read first time and referred to Committee on Judiciary.  
January 16, 2014, amended, reported favorably — Do Pass.

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SB 27—LS 6062/DI 69





January 17, 2014

Second Regular Session 118th General Assembly (2014)

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 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

## SENATE BILL No. 27

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 31-17-4.5 IS ADDED TO THE INDIANA CODE  
2 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2014]:  
4 **Chapter 4.5. Requirements When Adoption is Pending for a**  
5 **Child Who is the Subject of a Custody, Parenting Time, or**  
6 **Modification of Custody or Parenting Time Action**  
7 **Sec. 1. An individual shall give notice of a custody, parenting**  
8 **time, or modification of custody or parenting time action to an**  
9 **attorney or agency that:**  
10 **(1) serves the individual with notice under:**  
11 **(A) IC 31-19-3;**  
12 **(B) IC 31-19-4; or**  
13 **(C) IC 31-19-4.5; or**  
14 **(2) informs the individual in any other manner.**  
15 **Sec. 2. An individual who:**  
16 **(1) has not been served notice of an adoption as described in**

SB 27—LS 6062/DI 69



1           **section 1 of this chapter;**

2           **(2) is a party to a custody, parenting time, or modification of**  
3           **custody or parenting time action under this article;**

4           **(3) knows that an adoption has been filed regarding the child**  
5           **who is the subject of the custody, parenting time, or**  
6           **modification of custody or parenting time action; and**

7           **(4) knows the court in which the adoption is pending;**

8           **shall serve the clerk of the court having jurisdiction over the**  
9           **adoption with a notice of the custody, parenting time, or**  
10           **modification of custody or parenting time action.**

11           **Sec. 3. The notice under sections 1 and 2 of this chapter must**  
12           **include:**

13           **(1) the name of the court;**

14           **(2) the cause number; and**

15           **(3) the date of filing;**

16           **of the custody, parenting time, or modification of custody or**  
17           **parenting time action.**

18           **Sec. 4. Upon notice that a court in which an adoption is pending**  
19           **has assumed jurisdiction of a custody, parenting time, or**  
20           **modification of custody or parenting time action under**  
21           **IC 31-19-2-15, the court in which the custody, parenting time, or**  
22           **modification of custody or parenting time action was pending shall**  
23           **stay all proceedings in the custody, parenting time, or modification**  
24           **of custody or parenting time action until further order from the**  
25           **court in which the adoption is pending.**

26           SECTION 2. IC 31-19-2-13, AS AMENDED BY P.L.145-2006,  
27           SECTION 246, IS AMENDED TO READ AS FOLLOWS  
28           [EFFECTIVE JULY 1, 2014]: Sec. 13. (a) Except for a child who is  
29           under the care and supervision of the department, a petitioner for  
30           adoption may file a separate, ex parte, verified petition requesting  
31           temporary custody of a child sought to be adopted at the time of or any  
32           time after the filing of a petition for adoption. The petition for  
33           temporary custody must be signed by each petitioner for adoption.

34           (b) A court may grant a petition for temporary custody filed under  
35           subsection (a) if the court finds that:

36           (1) the petition for adoption is in proper form; and

37           (2) placing the child with the petitioner or petitioners for adoption  
38           pending the hearing on the petition for adoption is in the best  
39           interests of the child.

40           (c) If temporary custody is granted under this section, the petitioner  
41           or petitioners for adoption are legally and financially responsible for  
42           the child until otherwise ordered by the court.



1           (d) To the extent that a temporary custody order issued under  
2 this section conflicts with a custody order issued under IC 31-14 or  
3 IC 31-17, a temporary order under this section controls.

4           SECTION 3. IC 31-19-2-15 IS ADDED TO THE INDIANA CODE  
5 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
6 1, 2014]: Sec. 15. (a) Except for a child who is under the care and  
7 supervision of the department, if a petition for adoption and a  
8 petition seeking custody, parenting time, or modification of custody  
9 or parenting time are pending at the same time for a child sought  
10 to be adopted, the court in which the petition for adoption has been  
11 filed may consolidate the custody, parenting time, or modification  
12 of custody or parenting time proceeding with the adoption  
13 proceeding.

14           (b) If the court consolidates the proceedings as described in  
15 subsection (a), the court in which the petition for adoption has been  
16 filed has exclusive jurisdiction over the child.

17           (c) If the petition for adoption is dismissed, the court hearing a  
18 consolidated adoption and custody, parenting time, or modification  
19 of custody or parenting time proceeding shall determine who has  
20 custody of the child under IC 31-19-11-5.

21           (d) Following a dismissal of the adoption petition under  
22 subsection (c), if the court consolidated the proceedings as  
23 described in subsection (a), the court shall return the custody,  
24 parenting time, or modification of custody or parenting time  
25 proceeding to the court in which it was originally filed. When the  
26 custody, parenting time, or modification of custody or parenting  
27 time proceeding is returned to the court in which it was originally  
28 filed, the court assumes jurisdiction over the child, subject to any  
29 provisions of the consolidated court's order under IC 31-19-11-5.

30           SECTION 4. IC 31-19-11-6 IS AMENDED TO READ AS  
31 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 6. The court may not  
32 hear and grant a petition for adoption even if an appeal of a decision  
33 regarding the termination of the parent-child relationship is pending  
34 of a child if:

35           (1) the parent-child relationship between the child and a  
36 parent has been terminated; and

37           (2) one (1) or more of the following apply with respect to the  
38 termination described in subdivision (1):

39           (A) The time for filing an appeal (including a request for  
40 transfer or certiorari) has not elapsed.

41           (B) An appeal is pending.

42           (C) An appellate court is considering a request for transfer



1 or certiorari.



## COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 27, has had the same under consideration and begs leave to report the same back to the Senate 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 31-17-4.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]:

**Chapter 4.5. Requirements When Adoption is Pending for a Child Who is the Subject of a Custody, Parenting Time, or Modification of Custody or Parenting Time Action**

**Sec. 1. An individual shall give notice of a custody, parenting time, or modification of custody or parenting time action to an attorney or agency that:**

**(1) serves the individual with notice under:**

- (A) IC 31-19-3;**
- (B) IC 31-19-4; or**
- (C) IC 31-19-4.5; or**

**(2) informs the individual in any other manner.**

**Sec. 2. An individual who:**

- (1) has not been served notice of an adoption as described in section 1 of this chapter;**
- (2) is a party to a custody, parenting time, or modification of custody or parenting time action under this article;**
- (3) knows that an adoption has been filed regarding the child who is the subject of the custody, parenting time, or modification of custody or parenting time action; and**
- (4) knows the court in which the adoption is pending;**

**shall serve the clerk of the court having jurisdiction over the adoption with a notice of the custody, parenting time, or modification of custody or parenting time action.**

**Sec. 3. The notice under sections 1 and 2 of this chapter must include:**

- (1) the name of the court;**
- (2) the cause number; and**
- (3) the date of filing;**

**of the custody, parenting time, or modification of custody or parenting time action.**

**Sec. 4. Upon notice that a court in which an adoption is pending has assumed jurisdiction of a custody, parenting time, or**



**modification of custody or parenting time action under IC 31-19-2-15, the court in which the custody, parenting time, or modification of custody or parenting time action was pending shall stay all proceedings in the custody, parenting time, or modification of custody or parenting time action until further order from the court in which the adoption is pending.**

SECTION 2. IC 31-19-2-13, AS AMENDED BY P.L.145-2006, SECTION 246, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 13. (a) Except for a child who is under the care and supervision of the department, a petitioner for adoption may file a separate, ex parte, verified petition requesting temporary custody of a child sought to be adopted at the time of or any time after the filing of a petition for adoption. The petition for temporary custody must be signed by each petitioner for adoption.

(b) A court may grant a petition for temporary custody filed under subsection (a) if the court finds that:

- (1) the petition for adoption is in proper form; and
- (2) placing the child with the petitioner or petitioners for adoption pending the hearing on the petition for adoption is in the best interests of the child.

(c) If temporary custody is granted under this section, the petitioner or petitioners for adoption are legally and financially responsible for the child until otherwise ordered by the court.

**(d) To the extent that a temporary custody order issued under this section conflicts with a custody order issued under IC 31-14 or IC 31-17, a temporary order under this section controls.**

SECTION 3. IC 31-19-2-15 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 15. (a) Except for a child who is under the care and supervision of the department, if a petition for adoption and a petition seeking custody, parenting time, or modification of custody or parenting time are pending at the same time for a child sought to be adopted, the court in which the petition for adoption has been filed may consolidate the custody, parenting time, or modification of custody or parenting time proceeding with the adoption proceeding.

(b) If the court consolidates the proceedings as described in subsection (a), the court in which the petition for adoption has been filed has exclusive jurisdiction over the child.

(c) If the petition for adoption is dismissed, the court hearing a consolidated adoption and custody, parenting time, or modification of custody or parenting time proceeding shall determine who has





custody of the child under IC 31-19-11-5.

(d) Following a dismissal of the adoption petition under subsection (c), if the court consolidated the proceedings as described in subsection (a), the court shall return the custody, parenting time, or modification of custody or parenting time proceeding to the court in which it was originally filed. When the custody, parenting time, or modification of custody or parenting time proceeding is returned to the court in which it was originally filed, the court assumes jurisdiction over the child, subject to any provisions of the consolidated court's order under IC 31-19-11-5."

Page 1, line 3, strike "hear and".

Page 1, line 3, strike "if an appeal of a decision".

Page 1, line 4, strike "regarding the termination of the parent-child relationship is pending." and insert "of a child if:

**(1) the parent-child relationship between the child and a parent has been terminated; and**

**(2) one (1) or more of the following apply with respect to the termination described in subdivision (1):**

**(A) The time for filing an appeal (including a request for transfer or certiorari) has not elapsed.**

**(B) An appeal is pending.**

**(C) An appellate court is considering a request for transfer or certiorari."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 27 as introduced.)

STEELE, Chairperson

Committee Vote: Yeas 10, Nays 0.

