

SENATE BILL No. 119

DIGEST OF INTRODUCED BILL

Citations Affected: IC 31-34.

Synopsis: Child in need of services (CHINS). Establishes a rebuttable presumption that a child is a child in need of services (CHINS) if the child: (1) is a victim of human or sexual trafficking; or (2) lives in the same household as another child who is a victim of human or sexual trafficking, or in the same household as an adult who is charged with or convicted of a human or sexual trafficking offense.

Effective: July 1, 2016.

Randolph Lonnie M

January 5, 2016, read first time and referred to Committee on Judiciary.



Second Regular Session 119th General Assembly (2016)

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 2015 Regular Session of the General Assembly.

SENATE BILL No. 119

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 31-34-1-3.5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2016]: **Sec. 3.5. (a) A child is a child in need of services if, before
4 the child becomes eighteen (18) years of age:**
5 (1) the child is a victim of a human or sexual trafficking
6 offense under IC 35-42-3.5-1; and
7 (2) the child needs care, treatment, or rehabilitation that:
8 (A) the child is not receiving; and
9 (B) is unlikely to be provided or accepted without the
10 coercive intervention of the court.
11 (b) A child is a child in need of services if, before the child
12 becomes eighteen (18) years of age:
13 (1) the child lives:
14 (A) in the same household as another child who is the
15 victim of a human or sexual trafficking offense under
16 IC 35-42-3.5-1; or
17 (B) in the same household as an adult who:



- 1 (i) committed a human or sexual trafficking offense
 2 under IC 35-42-3.5-1 that resulted in a conviction or a
 3 judgment under IC 31-34-11-2; or
 4 (ii) has been charged with a human or sexual trafficking
 5 offense under IC 35-42-3.5-1 and is awaiting trial; and
 6 (2) the child needs care, treatment, or rehabilitation that:
 7 (A) the child is not receiving; and
 8 (B) is unlikely to be provided or accepted without the
 9 coercive intervention of the court.

10 SECTION 2. IC 31-34-10-3, AS AMENDED BY P.L.234-2005,
 11 SECTION 180, IS AMENDED TO READ AS FOLLOWS
 12 [EFFECTIVE JULY 1, 2016]: Sec. 3. Before complying with the other
 13 requirements of this chapter, the juvenile court shall first determine
 14 whether the following conditions make it appropriate to appoint a
 15 guardian ad litem or a court appointed special advocate, or both, for the
 16 child:

- 17 (1) If the child is alleged to be a child in need of services:
 18 (A) under IC 31-34-1-6;
 19 (B) under IC 31-34-1-10 or IC 31-34-1-11;
 20 (C) due to the inability, refusal, or neglect of the child's parent,
 21 guardian, or custodian to supply the child with the necessary
 22 medical care; or
 23 (D) because the location of both of the child's parents is
 24 unknown;

25 the court shall appoint a guardian ad litem or court appointed
 26 special advocate, or both, for the child.

- 27 (2) If the child is alleged to be a child in need of services under:
 28 (A) IC 31-34-1-1;
 29 (B) IC 31-34-1-2;
 30 (C) IC 31-34-1-3;
 31 **(D) IC 31-34-1-3.5;**
 32 ~~(E)~~ (E) IC 31-34-1-4;
 33 ~~(F)~~ (F) IC 31-34-1-5;
 34 ~~(G)~~ (G) IC 31-34-1-7; or
 35 ~~(H)~~ (H) IC 31-34-1-8;

36 the court shall appoint a guardian ad litem, court appointed
 37 special advocate, or both, for the child.

- 38 (3) If the parent, guardian, or custodian of a child denies the
 39 allegations of a petition under section 6 of this chapter, the court
 40 shall appoint a guardian ad litem, court appointed special
 41 advocate, or both, for the child.

42 SECTION 3. IC 31-34-12-4.5 IS AMENDED TO READ AS



1 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 4.5. (a) There is a
2 rebuttable presumption that a child is a child in need of services if the
3 state establishes that:

4 (1) another child in the same household is the victim of:

5 (A) a sex offense described in IC 31-34-1-3; **or**

6 (B) **an offense described in IC 31-34-1-3.5;** and

7 (2) the sex offense described in IC 31-34-1-3 **or the offense**
8 **described in IC 31-34-1-3.5:**

9 (A) was committed by an adult who lives in the household
10 with the child; and

11 (B) resulted in a conviction of the adult or a judgment under
12 IC 31-34-11-2 as it relates to the child against whom the ~~sex~~
13 offense was committed.

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

16 (1) The child who is the victim of:

17 (A) ~~the a~~ a sex offense described in IC 31-34-1-3; **or**

18 (B) **an offense described in IC 31-34-1-3.5;**

19 is not genetically related to the adult who committed the act, but
20 the child presumed to be the child in need of services under this
21 section is genetically related to the adult who committed the act.

22 (2) The child who is the victim of:

23 (A) ~~the a~~ a sex offense described in IC 31-34-1-3; **or**

24 (B) **an offense described in IC 31-34-1-3.5;**

25 differs in age from the child presumed to be the child in need of
26 services under this section.

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

