

# SENATE BILL No. 131

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 31-33-18-1.5.

**Synopsis:** Department of child services reporting. Defines "life threatening" as a condition that: (1) is categorized as "serious" or "critical" in patient hospital records; or (2) results in critical care treatment for at least 24 hours following a child's admission to a critical care unit. Changes the definition of "near fatality", for purposes of the law concerning records relating to a child's death or near fatality, to a severe childhood injury or condition that is certified by a physician as being life threatening. Urges the legislative council to assign to the interim study committee on public health, behavioral health, and human services or another appropriate interim study committee the topics of medical records confidentiality and medical records disclosure in instances of child abuse or neglect.

**Effective:** Upon passage; July 1, 2016.

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## Broden

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January 5, 2016, read first time and referred to Committee on Family & Children Services.

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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. 131

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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 31-33-18-1.5, AS AMENDED BY P.L.119-2013,  
2 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2016]: Sec. 1.5. (a) This section applies to records held by:  
4 (1) a local office;  
5 (2) the department; or  
6 (3) the department of child services ombudsman established by  
7 IC 4-13-19-3;  
8 regarding a child whose death or near fatality may have been the result  
9 of abuse, abandonment, or neglect.  
10 (b) For purposes of subsection (a), a child's death or near fatality  
11 may have been the result of abuse, abandonment, or neglect if:  
12 (1) an entity described in subsection (a) determines that the child's  
13 death or near fatality is the result of abuse, abandonment, or  
14 neglect; or  
15 (2) a prosecuting attorney files:  
16 (A) an indictment or information; or  
17 (B) a complaint alleging the commission of a delinquent act;



- 1 that, if proven, would cause a reasonable person to believe that  
 2 the child's death or near fatality may have been the result of  
 3 abuse, abandonment, or neglect.
- 4 Upon the request of any person, or upon its own motion, the court  
 5 exercising juvenile jurisdiction in the county in which the child's death  
 6 or near fatality occurred shall determine whether the allegations  
 7 contained in the indictment, information, or complaint described in  
 8 subdivision (2), if proven, would cause a reasonable person to believe  
 9 that the child's death or near fatality may have been the result of abuse,  
 10 abandonment, or neglect.
- 11 (c) If the juvenile court finds that the child's death or near fatality  
 12 was the result of abuse, abandonment, or neglect, the court shall make  
 13 written findings and provide a copy of the findings and the indictment,  
 14 information, or complaint described under subsection (b)(2) to the  
 15 department.
- 16 (d) As used in this section:
- 17 (1) "case" means:
- 18 (A) any intake report generated by the department;  
 19 (B) any investigation or assessment conducted by the  
 20 department; or  
 21 (C) ongoing involvement between the department and a child  
 22 or family that is the result of:
- 23 (i) a program of informal adjustment; or  
 24 (ii) a child in need of services action;  
 25 for which related records and documents have not been expunged  
 26 as required by law or by a court at the time the department is  
 27 notified of a fatality or near fatality;
- 28 (2) "contact" means in person communication about a case in  
 29 which:
- 30 (A) the child who is the victim of a fatality or near fatality is  
 31 alleged to be a victim; or  
 32 (B) the perpetrator of the fatality or near fatality is alleged to  
 33 be the perpetrator;
- 34 (3) "identifying information" means information that identifies an  
 35 individual, including an individual's:
- 36 (A) name, address, date of birth, occupation, place of  
 37 employment, and telephone number;  
 38 (B) employer identification number, mother's maiden name,  
 39 Social Security number, or any identification number issued by  
 40 a governmental entity;  
 41 (C) unique biometric data, including the individual's  
 42 fingerprint, voice print, or retina or iris image;



- 1 (D) unique electronic identification number, address, or  
 2 routing code;
- 3 (E) telecommunication identifying information; or
- 4 (F) telecommunication access device, including a card, a plate,  
 5 a code, an account number, a personal identification number,  
 6 an electronic serial number, a mobile identification number, or  
 7 another telecommunications service or device or means of  
 8 account access;
- 9 **(4) "life threatening" means an injury or condition that:**
- 10 **(A) is categorized as "serious" or "critical" in patient**  
 11 **hospital records; or**
- 12 **(B) results in critical care treatment for not less than**  
 13 **twenty-four (24) hours following a child's admission to a**  
 14 **critical care unit; and**
- 15 ~~(4)~~ **(5) "near fatality" has the meaning set forth in 42 U.S.C.**  
 16 **5106a: means a severe childhood injury or condition that is**  
 17 **certified by a physician as being life threatening.**
- 18 (e) Unless information in a record is otherwise confidential under  
 19 state or federal law, a record described in subsection (a) that has been  
 20 redacted in accordance with this section is not confidential and may be  
 21 disclosed to any person who requests the record. The person requesting  
 22 the record may be required to pay the reasonable expenses of copying  
 23 the record.
- 24 (f) When a person requests a record described in subsection (a), the  
 25 entity having control of the record shall immediately transmit a copy of  
 26 the record to the court exercising juvenile jurisdiction in the county in  
 27 which the death or near fatality of the child occurred. However, if the  
 28 court requests that the entity having control of a record transmit the  
 29 original record, the entity shall transmit the original record.
- 30 (g) Upon receipt of the record described in subsection (a), the court  
 31 shall, within thirty (30) days, redact the record to exclude:
- 32 (1) identifying information described in subsection (d)(3)(B)  
 33 through (d)(3)(F) of a person; and
- 34 (2) all identifying information of a child less than eighteen (18)  
 35 years of age.
- 36 (h) The court shall disclose the record redacted in accordance with  
 37 subsection (g) to any person who requests the record, if the person has  
 38 paid:
- 39 (1) to the entity having control of the record, the reasonable  
 40 expenses of copying under IC 5-14-3-8; and
- 41 (2) to the court, the reasonable expenses of copying the record.
- 42 (i) The data and information in a record disclosed under this section



- 1 must include the following:
- 2 (1) A summary of the report of abuse or neglect and a factual
- 3 description of the contents of the report.
- 4 (2) The ~~date of birth~~ age and gender of the child.
- 5 (3) The cause of the fatality or near fatality, if the cause has been
- 6 determined.
- 7 (4) Whether the department had any contact with the child or the
- 8 perpetrator before the fatality or near fatality, and, if the
- 9 department had contact, the following:
- 10 (A) The frequency of the contact with the child or the
- 11 perpetrator before the fatality or near fatality and the date on
- 12 which the last contact occurred before the fatality or near
- 13 fatality.
- 14 (B) A summary of the status of the child's case at the time of
- 15 the fatality or near fatality, including:
- 16 (i) whether the child's case was closed by the department
- 17 before the fatality or near fatality; and
- 18 (ii) if the child's case was closed as described under item (i),
- 19 the date of closure and the reasons that the case was closed.
- 20 (j) The court's determination under subsection (g) that certain
- 21 identifying information or other information is not relevant to
- 22 establishing the facts and circumstances leading to the death or near
- 23 fatality of a child is not admissible in a criminal proceeding or civil
- 24 action.
- 25 SECTION 2. [EFFECTIVE UPON PASSAGE] (a) **As used in this**
- 26 **SECTION, "public health, behavioral health, and human services**
- 27 **committee" refers to the interim study committee on public health,**
- 28 **behavioral health, and human services established by IC 2-5-1.3-4.**
- 29 (b) **As used in this SECTION, "study committee" means an**
- 30 **interim study committee established by IC 2-5-1.3-4.**
- 31 (c) **The general assembly urges the legislative council to assign**
- 32 **to the public health, behavioral health, and human services**
- 33 **committee or another appropriate study committee the topics of:**
- 34 (1) **medical records confidentiality; and**
- 35 (2) **medical records disclosure;**
- 36 **in instances of child abuse and neglect.**
- 37 (d) **If the legislative council assigns the topics described in**
- 38 **subsection (c) to the public health, behavioral health, and human**
- 39 **services committee or another appropriate study committee, the**
- 40 **public health, behavioral health, and human services committee or**
- 41 **the appropriate study committee shall complete the study required**
- 42 **by this SECTION and report its findings and recommendations, if**



1        **any, to the legislative council in an electronic format under**  
2        **IC 5-14-6 not later than November 1, 2016.**  
3        **(e) This SECTION expires January 1, 2017.**  
4        **SECTION 3. An emergency is declared for this act.**

