

SENATE BILL No. 180

DIGEST OF INTRODUCED BILL

Citations Affected: IC 12-26-8-1; IC 31-32; IC 31-40-1-2.

Synopsis: Juvenile court appointed attorney for child. Requires an appointed attorney in certain types of juvenile court cases. Requires the juvenile court to appoint the attorney before the first hearing. Allows the juvenile court to order a parent or guardian to pay for an appointed attorney's fees to the extent that the amount the parent or guardian is ordered to pay will not cause a substantial hardship to the child's family. Allows the juvenile court to appoint a public defender for certain cases. Requires a guardian ad litem to be an attorney if the petition for child in need of services (CHINS) alleges abuse or neglect, and provides that the guardian ad litem cannot be the same person as the child's attorney.

Effective: July 1, 2022.

Ford Jon

January 6, 2022, read first time and referred to Committee on Family and Children Services.



Second Regular Session of the 122nd General Assembly (2022)

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 2021 Regular Session of the General Assembly.

SENATE BILL No. 180

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 12-26-8-1 IS AMENDED TO READ AS
- 2 FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 1. (a) A juvenile court
- 3 that conducts a proceeding under this article shall appoint:
- 4 (1) a court appointed special advocate, a guardian ad litem, or
- 5 both; **and**
- 6 (2) **an attorney if counsel has not been previously appointed**
- 7 **or retained;**
- 8 for the child before the court begins a proceeding under this article.
- 9 (b) An advocate is not required to be an attorney.
- 10 (c) An attorney representing the child may be appointed as the
- 11 child's advocate.
- 12 (d) The court may not appoint any of the following to be a child's
- 13 advocate:
- 14 (1) A party to the proceeding.
- 15 (2) An employee of a party to the proceeding.
- 16 (3) A representative of a party to the proceeding.
- 17 (e) An advocate shall represent and protect the best interests of the



1 child.

2 SECTION 2. IC 31-32-3-3 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 3. **(a) Except as**
4 **provided in subsection (b)**, a guardian ad litem or court appointed
5 special advocate need not be an attorney, but the attorney representing
6 the child may be appointed the child's guardian ad litem or court
7 appointed special advocate.

8 **(b) If a child in need of services petition alleges that a child is**
9 **abused or neglected:**

10 **(1) the child's guardian ad litem or special advocate must be**
11 **an attorney; and**

12 **(2) the attorney who files the petition may not be appointed as**
13 **the child's guardian ad litem or special advocate.**

14 SECTION 3. IC 31-32-4-1 IS AMENDED TO READ AS
15 FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 1. The following
16 persons are entitled to be represented by counsel:

17 (1) A child ~~charged with a delinquent act, as provided by~~
18 ~~IC 31-32-2-2.~~ **in the following proceedings:**

19 **(A) Child in need of services, under IC 31-34.**

20 **(B) Termination of parent-child relationship, under**
21 **IC 31-35.**

22 **(C) Delinquency, under IC 31-37.**

23 (2) A parent, in a proceeding to terminate the parent-child
24 relationship, as provided by IC 31-32-2-5.

25 (3) Any other person designated by law.

26 SECTION 4. IC 31-32-4-2 IS AMENDED TO READ AS
27 FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 2. (a) If:

28 (1) a child ~~alleged to be a delinquent child in a proceeding for:~~

29 **(A) child in need of services, under IC 31-34;**

30 **(B) termination of parent-child relationship, under**
31 **IC 31-35; or**

32 **(C) delinquency, under IC 31-37;**

33 does not have an attorney who may represent the child without a
34 conflict of interest; ~~and~~

35 (2) the child has not lawfully waived the child's right to counsel
36 under IC 31-32-5; ~~(or IC 31-6-7-3 before its repeal); and~~

37 **(3) the child is found to be indigent;**

38 the juvenile court shall appoint counsel for the child ~~at the detention~~
39 ~~hearing or at the initial hearing, whichever occurs first, or at any earlier~~
40 ~~time:~~ **before the first hearing.**

41 (b) The court may appoint counsel to represent any child in any
42 other proceeding.



1 **(c) An attorney appointed under this section:**

2 **(1) shall represent the child at all stages of the proceedings;**
3 **and**

4 **(2) may not withdraw solely because the child's parent or**
5 **guardian fails to obey an order under IC 31-40-1-2(g).**

6 SECTION 5. IC 31-32-4-3 IS AMENDED TO READ AS
7 FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 3. (a) If:

8 (1) a parent in proceedings to terminate the parent-child
9 relationship does not have an attorney who may represent the
10 parent without a conflict of interest; **and**

11 (2) the parent has not lawfully waived the parent's right to counsel
12 under IC 31-32-5; ~~(or IC 31-6-7-3 before its repeal);~~ **and**

13 **(3) the parent is found to be indigent;**

14 the juvenile court shall appoint counsel for the parent ~~at the initial~~
15 hearing or at any earlier time: **before the first hearing.**

16 (b) The court may appoint counsel to represent any parent in any
17 other proceeding.

18 **(c) An attorney appointed under this section:**

19 **(1) shall represent the parent at all stages of the proceedings;**
20 **and**

21 **(2) may not withdraw solely because the parent or guardian**
22 **fails to obey an order under IC 31-40-1-2(g).**

23 SECTION 6. IC 31-32-4-5 IS ADDED TO THE INDIANA CODE
24 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
25 1, 2022]: Sec. 5. (a) A juvenile court may appoint a public defender
26 in the following proceedings:

27 **(1) Child in need of services, under IC 31-34.**

28 **(2) Termination of parent-child relationship, under IC 31-35.**

29 **(3) Delinquency, under IC 31-37.**

30 **(b) The county's fiscal body (as defined in IC 36-1-2-6) shall fix**
31 **a reasonable sum to be paid by the county for the services of an**
32 **appointed attorney under this section.**

33 SECTION 7. IC 31-32-4-6 IS ADDED TO THE INDIANA CODE
34 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
35 1, 2022]: Sec. 6. (a) Except as provided in subsection (c), an
36 attorney appointed to represent a child under this chapter shall
37 meet with the child:

38 **(1) before the preliminary protective hearing, if possible; or**

39 **(2) within fourteen (14) days after the preliminary protective**
40 **hearing.**

41 **(b) The attorney shall meet with the child before all substantive**
42 **hearings.**



1 **(c) A judge may modify the requirements under this section for**
 2 **purposes of a substantive hearing if extraordinary circumstances**
 3 **exist.**

4 SECTION 8. IC 31-40-1-2, AS AMENDED BY P.L.48-2012,
 5 SECTION 75, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 JULY 1, 2022]: Sec. 2. (a) Except as otherwise provided in this section
 7 and subject to:

8 (1) this chapter; and

9 (2) any other provisions of IC 31-34, IC 31-37, or other applicable
 10 law relating to the particular program, activity, or service for
 11 which payment is made by or through the department;
 12 the department shall pay the cost of any child services provided by or
 13 through the department for any child or the child's parent, guardian, or
 14 custodian.

15 (b) The department shall pay the cost of returning a child under
 16 IC 31-37-23 or IC 11-13-4.5-1.5.

17 (c) Except as provided under section 2.5 of this chapter, the
 18 department is not responsible for payment of any costs of secure
 19 detention.

20 (d) The department is not responsible for the payment of any costs
 21 or expenses for child services for a child placed in a child caring
 22 institution, a group home, or a private secure facility if the entity does
 23 not have an executed contract with the department, unless the child
 24 services to be provided by the entity are recommended or approved by
 25 the director of the department or the director's designee in writing prior
 26 to the placement.

27 (e) The department is not responsible for payment of any costs or
 28 expenses for housing or services provided to or for the benefit of a
 29 child placed by a juvenile court in a home or facility located outside
 30 Indiana, if the placement is not recommended or approved by the
 31 director of the department or the director's designee.

32 (f) If a county is responsible for the payment of:

33 (1) any costs or expenses of services for or the placement of a
 34 child in need of services; or

35 (2) the costs or expenses of services for or the placement of a
 36 delinquent child;

37 the court may order the parents to reimburse the county as set forth in
 38 section 3.8 of this chapter.

39 **(g) If the juvenile court finds that a parent or guardian can**
 40 **afford, at least in part, the fees of an attorney appointed under**
 41 **IC 31-32-4-2 or IC 31-32-4-3:**

42 **(1) the juvenile court shall order the parent or guardian to**



1 **pay:**
2 **(A) the appointed attorney; or**
3 **(B) the county;**
4 **through the court clerk; and**
5 **(2) the amount that the juvenile court orders the parent or**
6 **guardian to pay must not cause substantial hardship to the**
7 **child's family.**
8 **(h) An order under subsection (g) may be enforced by a civil**
9 **judgment. Failure to pay the order is not grounds for contempt.**

