

## SENATE BILL No. 268

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### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 31-19-26.5.

**Synopsis:** Mandatory adoption subsidy payments. Requires the department of child services (department) to: (1) enter into an agreement, with each adoptive parent of a child with special needs who is eligible for an adoption subsidy, to provide an adoption subsidy for the child; and (2) allocate to the adoption assistance account funds necessary to make the adoption subsidy payments. Prohibits the department from terminating an adoption subsidy agreement with adoptive parents due to insufficient funds in the adoption assistance account. Makes conforming changes. Repeals a provision that allows the department to: (1) approve new adoption subsidy agreements only for children who are wards of the department at the time the adoption petition is filed; and (2) give priority to funding new adoption subsidy agreements for children who are or were wards of the department; if the department determines that sufficient funds are not available.

**Effective:** July 1, 2014.

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## Broden, Wyss

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January 13, 2014, read first time and referred to Committee on Appropriations.

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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. 268

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 31-19-26.5-3, AS ADDED BY P.L.146-2008,  
2 SECTION 562, IS AMENDED TO READ AS FOLLOWS  
3 [EFFECTIVE JULY 1, 2014]: Sec. 3. (a) The department ~~may~~ **shall**  
4 make payments of adoption subsidy under this chapter for the benefit  
5 of a child with special needs if the department has:  
6 (1) either:  
7 (A) entered into a written agreement **under section 10.5 of**  
8 **this chapter** with the adoptive parent or parents, before or at  
9 the time the court enters a final decree of adoption under  
10 IC 31-19-11-1, that specifies the amount, terms, and  
11 conditions of the adoption assistance payments; or  
12 (B) received a written final order in an administrative appeal  
13 in accordance with section 12(4) of this chapter concluding  
14 that the adoptive parents are eligible for a subsidy payable  
15 under this chapter and determining the appropriate subsidy  
16 amount; **and**



1 (2) determined that sufficient funds are available in the adoption  
 2 assistance account of the state general fund; and can reasonably  
 3 be anticipated to be available in that account during the term of  
 4 the agreement or order; to make the payments as specified in the  
 5 agreement or order; and

6 ~~(3)~~ (2) determined that the child is not eligible for adoption  
 7 assistance under 42 U.S.C. 673.

8 **(b) This section does not prohibit the department from**  
 9 **modifying or terminating an agreement with the adoptive parent**  
 10 **or parents under this chapter. However, the department may not**  
 11 **terminate an agreement with the adoptive parent or parents due to**  
 12 **insufficient funds in the adoption assistance account.**

13 SECTION 2. IC 31-19-26.5-4 IS REPEALED [EFFECTIVE JULY  
 14 1, 2014]. Sec. 4. If the department determines that sufficient funds are  
 15 not or will not be available in the adoption assistance account  
 16 established under this chapter to make adoption subsidy payments to  
 17 adoptive parents of all children who may be eligible for a subsidy  
 18 payable under this chapter, the department may, in accordance with  
 19 procedures established by rules:

20 (1) approve new adoption subsidy agreements only for the benefit  
 21 of children for whom the department has wardship responsibility  
 22 at the time the adoption petition is filed; or

23 (2) give priority to funding new adoption subsidy agreements for  
 24 children for whom the department has had wardship  
 25 responsibility.

26 SECTION 3. IC 31-19-26.5-10, AS ADDED BY P.L.146-2008,  
 27 SECTION 562, IS AMENDED TO READ AS FOLLOWS  
 28 [EFFECTIVE JULY 1, 2014]: Sec. 10. An adoption assistance account  
 29 is established within the state general fund for the purpose of funding  
 30 adoption subsidy payments under this chapter and the state's share of  
 31 adoption assistance payments under 42 U.S.C. 673. The account  
 32 consists of:

33 (1) amounts specifically appropriated to the department by the  
 34 general assembly for adoption assistance;

35 (2) amounts allocated by the department to the adoption  
 36 assistance account from ~~the department funds available to the~~  
 37 ~~department;~~ **in accordance with section 10.5 of this chapter;**  
 38 and

39 (3) any other amounts contributed or paid to the department for  
 40 adoption assistance under this chapter.

41 SECTION 4. IC 31-19-26.5-10.5 IS ADDED TO THE INDIANA  
 42 CODE AS A NEW SECTION TO READ AS FOLLOWS



1 [EFFECTIVE JULY 1, 2014]: **Sec. 10.5. (a) The department shall:**  
 2 **(1) enter into a written agreement described under section**  
 3 **3(a)(1)(A) of this chapter with each adoptive parent of a child**  
 4 **with special needs who is eligible for an adoption subsidy**  
 5 **under this chapter; and**  
 6 **(2) allocate funds to the adoption assistance account necessary**  
 7 **to meet the requirements under section 3 of this chapter.**

8 **(b) This section does not require the department to enter into an**  
 9 **agreement to:**

- 10 **(1) make additional payments under section 6 of this chapter;**  
 11 **or**  
 12 **(2) continue adoption subsidy payments under section 9(b) of**  
 13 **this chapter.**

14 SECTION 5. IC 31-19-26.5-11, AS ADDED BY P.L.146-2008,  
 15 SECTION 562, IS AMENDED TO READ AS FOLLOWS  
 16 [EFFECTIVE JULY 1, 2014]: Sec. 11. (a) ~~In determining the~~  
 17 ~~availability of funds in the adoption assistance account for payments of~~  
 18 ~~adoption subsidies under this chapter, Subject to sections 3 and 10.5~~  
 19 ~~of this chapter, the department shall give priority to payments required~~  
 20 ~~by court orders for county adoption subsidies entered under~~  
 21 ~~IC 31-19-26 (before its repeal).~~

22 (b) The provisions of this chapter applicable to continuation,  
 23 modification, or termination of adoption subsidy payments shall apply  
 24 after January 1, 2009, to county adoption subsidy orders entered under  
 25 IC 31-19-26 (before its repeal).

26 SECTION 6. IC 31-19-26.5-12, AS ADDED BY P.L.146-2008,  
 27 SECTION 562, IS AMENDED TO READ AS FOLLOWS  
 28 [EFFECTIVE JULY 1, 2014]: Sec. 12. The department shall adopt  
 29 rules under IC 4-22-2, as needed, to carry out this chapter. The rules  
 30 must include at least the following subjects:

- 31 (1) The application and determination process for subsidies or  
 32 other assistance provided under this chapter.  
 33 (2) The standards for determination of a child with special needs.  
 34 (3) The process for determining the duration, extension,  
 35 modification, and termination of agreements, as provided in  
 36 sections 8 and 9 of this chapter.  
 37 (4) The procedure for administrative review and appeal of  
 38 determinations made by the department under this chapter.  
 39 (5) **Subject to sections 3 and 10.5 of this chapter,** the procedure  
 40 for determining availability of funds for new subsidy agreements  
 41 and continuation of existing agreements or orders under this  
 42 chapter and IC 31-19-26 (before its repeal), including any funding



1 ~~limitations or~~ priorities as provided in ~~sections 4 and~~ **section 11**  
2 of this chapter.

