

SENATE BILL No. 348

DIGEST OF INTRODUCED BILL

Citations Affected: IC 31-9-2-48.2; IC 31-17-5; IC 31-19.

Synopsis: Grandparent visitation. Provides that an individual is a grandparent for purposes of the grandparent visitation statute if the individual is, or was at any time, the: (1) parent of a parent of the child; (2) adoptive parent of a parent of the child; or (3) parent of an adoptive parent of the child. Provides that a paternal grandparent of a child does not have standing to seek grandparent visitation if the child's father has not established paternity in relation to the child. (Under current law, such a grandparent has standing to seek grandparent visitation, but may not be awarded grandparent visitation.) Provides that in determining whether grandparent visitation is in the best interests of a child, the court may consider whether the child's parent has prevented the grandparent from having meaningful contact with the child due to estrangement of the relationship between the parent and the grandparent. Removes a requirement that a petition to seek grandparent visitation must be filed before the adoption of the child. Provides that a court may modify an order granting or denying grandparent visitation only if modification would serve the best interests of the child. Provides conditions under which standing to seek grandparent visitation survives: (1) establishment of the paternity of the child; and (2) the adoption of the child by certain family members. Provides that grandparent visitation awarded before adoption of the child by certain family members does not survive the adoption if neither of the child's parents has parental rights at the time of the adoption. Removes the requirement that a grandparent must be notified of a grandchild's pending adoption by a family member. Makes conforming amendments.

Effective: July 1, 2020.

Houchin

January 13, 2020, read first time and referred to Committee on Judiciary.



Second Regular Session of the 121st General Assembly (2020)

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 2019 Regular Session of the General Assembly.

SENATE BILL No. 348

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 31-9-2-48.2 IS ADDED TO THE INDIANA CODE
2 AS A **NEW SECTION** READ AS FOLLOWS [EFFECTIVE JULY 1,
3 2020]: **Sec. 48.2. "Grandparent", for purposes of IC 31-17-5, means**
4 **an individual who is, or was at any time, any of the following with**
5 **respect to a child:**

- 6 (1) **The parent of a parent of the child.**
- 7 (2) **The adoptive parent of a parent of the child.**
- 8 (3) **The parent of an adoptive parent of the child.**

9 SECTION 2. IC 31-17-5-0.2, AS ADDED BY P.L.220-2011,
10 SECTION 502, IS AMENDED TO READ AS FOLLOWS
11 [EFFECTIVE JULY 1, 2020]: Sec. 0.2. The amendments made to
12 IC 31-1-11.7-2 (before its repeal, now codified at sections 1, 8, 9, and
13 10 of this chapter) by P.L.293-1987 apply to ~~the~~ visitation ~~rights~~ **of**
14 **grandparents who have been granted visitation rights under this**
15 **chapter** before September 1, 1985.

16 SECTION 3. IC 31-17-5-1 IS AMENDED TO READ AS
17 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 1. (a) A child's



1 grandparent may seek visitation ~~rights~~ **if with the child:**

- 2 (1) **if either** of the child's ~~parent~~ **parents** is deceased;
 3 (2) **if** the marriage of the child's parents has been dissolved in
 4 Indiana; or
 5 (3) subject to subsection (b), **if** the child was born out of wedlock.

6 (b) ~~A court may not grant visitation rights to~~ A paternal grandparent
 7 of a child who is born out of wedlock ~~under subsection (a)(3)~~ **may not**
 8 **seek visitation** if the child's father has not established paternity in
 9 relation to the child **under IC 31-14-2-1.**

10 SECTION 4. IC 31-17-5-2 IS AMENDED TO READ AS
 11 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 2. (a) The court may
 12 grant visitation ~~rights to a grandparent under this chapter~~ if the
 13 court determines that visitation ~~rights are by the grandparent is~~ in the
 14 best interests of the child.

15 (b) In determining the best interests of the child under this section,
 16 the court may consider: ~~whether a~~

- 17 (1) **whether the** grandparent has had or has attempted to have
 18 meaningful contact with the child; **and**
 19 (2) **whether the child's parent has prevented the grandparent**
 20 **from having meaningful contact with the child due to**
 21 **estrangement of the relationship between the parent and the**
 22 **grandparent.**

23 (c) The court may interview the child in chambers to assist the court
 24 in determining the child's perception of whether visitation by a
 25 grandparent is in the best interests of the child.

26 (d) The court may permit counsel to be present at the interview. If
 27 counsel is present:

- 28 (1) a record may be made of the interview; and
 29 (2) the interview may be made part of the record for purposes of
 30 appeal.

31 SECTION 5. IC 31-17-5-3, AS AMENDED BY P.L.16-2017,
 32 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 33 JULY 1, 2020]: Sec. 3. ~~(a)~~ A proceeding for grandparent's visitation
 34 must be commenced by the filing of a petition entitled, "In Re the
 35 visitation of _____". The petition must:

- 36 (1) be filed by a grandparent entitled to ~~receive~~ **seek** visitation
 37 **rights** under this chapter;
 38 (2) be verified; and
 39 (3) set forth the following:
 40 (A) The names and relationship of:
 41 (i) the petitioning grandparent or grandparents;
 42 (ii) each child with whom visitation is sought; and



- 1 (iii) the custodial parent or guardian of each child.
 2 (B) The present address of each person named in clause (A).
 3 (C) The date of birth of each child with whom visitation is
 4 sought.
 5 (D) The status under section 1 of this chapter upon which the
 6 grandparent seeks visitation.
 7 (E) The relief sought.

8 ~~(b) A petition described in subsection (a) must be filed prior to the~~
 9 ~~date a decree of adoption is entered.~~

10 SECTION 6. IC 31-17-5-4, AS AMENDED BY P.L.50-2006,
 11 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 12 JULY 1, 2020]: Sec. 4. A grandparent seeking visitation ~~rights~~ shall
 13 file a petition requesting reasonable visitation: ~~rights~~:

- 14 (1) in a circuit, superior, or probate court of the county in which
 15 the child resides in a case described in section 1(a)(1), 1(a)(3), or
 16 10 of this chapter; or
 17 (2) in the court having jurisdiction over the dissolution of the
 18 parents' marriage in a case described in section 1(a)(2) of this
 19 chapter.

20 SECTION 7. IC 31-17-5-7 IS AMENDED TO READ AS
 21 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 7. **(a)** The court may
 22 modify an order granting or denying visitation ~~rights whenever under~~
 23 **this chapter only if** modification would serve the best interests of the
 24 child.

25 **(b) This section establishes the exclusive means for judicial**
 26 **modification or termination of a visitation order issued under this**
 27 **chapter.**

28 SECTION 8. IC 31-17-5-8 IS AMENDED TO READ AS
 29 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 8. (a) This section
 30 applies to a child born out of wedlock.

31 **(b) Except as provided under subsection (c):**

- 32 **(1) standing to seek** visitation ~~rights provided for in under~~
 33 ~~section 1 or 10 of this chapter; and~~
 34 **(2) visitation rights granted under this chapter;**
 35 survive the establishment of paternity of a child ~~by a court proceeding~~
 36 ~~other than an adoption proceeding; under IC 31-14-2-1.~~

37 **(c) If paternity is established under IC 31-14-2-1(1) in an action**
 38 **that is also an adoption proceeding, survival of standing to seek**
 39 **visitation and survival of visitation rights granted under this**
 40 **chapter are determined under section 9 of this chapter.**

41 SECTION 9. IC 31-17-5-9 IS AMENDED TO READ AS
 42 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 9. **Standing to seek**



1 visitation ~~rights provided for in~~ **under** section 1 or 10 of this chapter
 2 **and visitation rights granted under this chapter** survive the adoption
 3 of the child by: ~~any of the following:~~

- 4 (1) a stepparent; **or**
 5 (2) a person who is biologically related to the child as:
 6 (A) a grandparent;
 7 (B) a sibling;
 8 (C) an aunt;
 9 (D) an uncle;
 10 (E) a niece; or
 11 (F) a nephew;

12 **unless neither of the child's parents has parental rights at the time**
 13 **of the adoption.**

14 SECTION 10. IC 31-17-5-10, AS AMENDED BY P.L.138-2007,
 15 SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 16 JULY 1, 2020]: Sec. 10. If the marriage of the child's parents has been
 17 dissolved in another state, the child's maternal or paternal grandparent
 18 may seek visitation ~~rights~~ if:

- 19 (1) the custody decree entered in the action for dissolution of
 20 marriage does not bind the grandparent under IC 31-21-3-1 (or
 21 IC 31-17-3-12 before its repeal); and
 22 (2) an Indiana court would have jurisdiction under IC 31-21-5-1
 23 (or IC 31-17-3-3 before its repeal), IC 31-21-5-2, or IC 31-21-5-3
 24 (or IC 31-17-3-14 before its repeal) to grant visitation ~~rights~~ to the
 25 grandparent in a modification decree.

26 SECTION 11. IC 31-19-2.5-3, AS AMENDED BY P.L.190-2017,
 27 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 28 JULY 1, 2020]: Sec. 3. (a) Except as provided in section 4 of this
 29 chapter, notice must be given to a:

- 30 (1) person whose consent to adoption is required under
 31 IC 31-19-9-1; **and**
 32 (2) putative father who is entitled to notice under IC 31-19-4. ~~and~~
 33 (3) ~~grandparent described in IC 31-19-4.5-1(3) of a child sought~~
 34 ~~to be adopted.~~

35 (b) If the parent-child relationship has been terminated under
 36 IC 31-35 (or IC 31-6-5 before its repeal), notice of the pendency of the
 37 adoption proceedings shall be given to the:

- 38 (1) licensed child placing agency; or
 39 (2) local office;

40 of which the child is a ward.

41 SECTION 12. IC 31-19-4.5-1, AS AMENDED BY P.L.190-2017,
 42 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



- 1 JULY 1, 2020]: Sec. 1. This chapter:
 2 (1) shall not be construed to affect notice of an adoption provided
 3 to a putative father under IC 31-19-4; **and**
 4 (2) applies to a father who has abandoned, failed to support, or
 5 failed to communicate with a child. **and**
 6 (3) ~~except for section 3 of this chapter, applies to a grandparent~~
 7 ~~who:~~
 8 (A) is the grandparent of a child sought to be adopted; and
 9 (B) has:
 10 (i) an existing right to petition for visitation under
 11 IC 31-17-5; and
 12 (ii) a right to visitation that will not be terminated after the
 13 adoption under IC 31-17-5-9;
 14 at a time prior to the date of the filing of the petition for
 15 adoption.
 16 SECTION 13. IC 31-19-4.5-1.5 IS REPEALED [EFFECTIVE JULY
 17 1, 2020]. Sec. 1.5: A notice to a grandparent required under
 18 ~~IC 31-19-2.5-3(a)(3)~~ is:
 19 (1) limited to the issue of visitation and may not be used to
 20 contest an adoption; and
 21 (2) not required if the child to be adopted has been placed in the
 22 care, custody, or control of the department.

