

# HOUSE BILL No. 1261

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 31-9-2-0.9; IC 31-17-6-1; IC 31-35-3.5.

**Synopsis:** Terminating the parent-child relationship. Allows a parent who is the victim of an act of rape from which a child was conceived to file a petition to terminate the parent-child relationship between the child and the alleged perpetrator of the act of rape. Requires a court to terminate the parent-child relationship if the court finds: (1) by clear and convincing evidence that the alleged perpetrator committed an act of rape against the parent who filed the petition to terminate the parent-child relationship and that the child was conceived as a result of the act of rape; and (2) that terminating the parent-child relationship would be in the best interests of the child.

**Effective:** July 1, 2015.

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## Slager

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January 13, 2015, read first time and referred to Committee on Judiciary.

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First Regular Session of the 119th General Assembly (2015)

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 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

# HOUSE BILL No. 1261



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 31-9-2-0.9 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2015]: **Sec. 0.9. "Act of rape", for purposes of IC 31-35-3.5,**  
4 **means an act described in:**

- 5 (1) **IC 35-42-4-1; or**
- 6 (2) **IC 35-42-4-3(a).**

7 SECTION 2. IC 31-17-6-1, AS AMENDED BY P.L.133-2008,  
8 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
9 JULY 1, 2015]: Sec. 1. A court, in a proceeding under IC 31-17-2,  
10 IC 31-17-4, this chapter, IC 31-17-7, ~~or~~ IC 31-28-5, **or IC 31-35-3.5,**  
11 may appoint a guardian ad litem, a court appointed special advocate,  
12 or both, for a child at any time.

13 SECTION 3. IC 31-35-3.5 IS ADDED TO THE INDIANA CODE  
14 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
15 JULY 1, 2015]:



1           **Chapter 3.5. Termination of Parent-Child Relationship With an**  
 2 **Individual Who Committed an Act of Rape**

3           **Sec. 1. Proceedings under this chapter are governed by the**  
 4 **procedures prescribed by:**

- 5           (1) IC 31-32-1, IC 31-32-4 through IC 31-32-10, and  
 6 IC 31-32-12 through IC 31-32-15;  
 7           (2) IC 31-34; and  
 8           (3) IC 31-37;

9           **but are distinct from proceedings under IC 31-34 and IC 31-37.**

10          **Sec. 2. The probate court has concurrent original jurisdiction**  
 11 **with the juvenile court in proceedings on a petition to terminate a**  
 12 **parent-child relationship under this chapter.**

13          **Sec. 3. If a child was conceived as a result of an act of rape, the**  
 14 **parent who is the victim of the act of rape may file a verified**  
 15 **petition with the juvenile or probate court to terminate the**  
 16 **parent-child relationship between the child and the alleged**  
 17 **perpetrator of the act of rape.**

18          **Sec. 4. The verified petition filed under section 3 of this chapter**  
 19 **must:**

- 20          (1) be entitled "In the Matter of the Termination of the  
 21 Parent-Child Relationship of \_\_\_\_\_, a child, and  
 22 \_\_\_\_\_, the parent"; and

23          (2) allege:

24           (A) that the alleged perpetrator committed an act of rape  
 25 against the parent who filed the petition to terminate the  
 26 parent-child relationship;

27           (B) that the child was conceived as a result of the act of  
 28 rape described under clause (A); and

29           (C) that the termination of the parent-child relationship  
 30 between the alleged perpetrator and the child is in the best  
 31 interests of the child.

32          **Sec. 5. A showing by clear and convincing evidence that:**

- 33          (1) the alleged perpetrator committed an act of rape against  
 34 a parent described in section 4(2)(A) of this chapter; and

- 35          (2) the child was conceived as a result of the act of rape;

36          **is prima facie evidence that termination of the parent-child**  
 37 **relationship between the alleged perpetrator and the child is in the**  
 38 **best interests of the child.**

39          **Sec. 6. (a) The court shall terminate the parent-child**  
 40 **relationship if the court finds:**

- 41          (1) by clear and convincing evidence that the allegations in a  
 42 petition described in section 4(2)(A) and 4(2)(B) of this



1 chapter are true; and  
2 (2) that termination of the parent-child relationship is in the  
3 best interests of the child.  
4 (b) If the court does not find:  
5 (1) by clear and convincing evidence that the allegations in a  
6 petition described in section 4(2)(A) and 4(2)(B) of this  
7 chapter are true; and  
8 (2) that termination of the parent-child relationship is in the  
9 best interests of the child;  
10 the court shall dismiss the petition.  
11 Sec. 7. The court may appoint:  
12 (1) a guardian ad litem;  
13 (2) a court appointed special advocate; or  
14 (3) both a guardian ad litem and a court appointed special  
15 advocate;  
16 for a child in a proceeding under this chapter, as provided in  
17 IC 31-17-6-1.

