

SENATE BILL No. 106

DIGEST OF INTRODUCED BILL

Citations Affected: IC 31-9-2-48.3; IC 31-14-14-3; IC 31-17; IC 31-19-2.5-3; IC 31-19-4.5.

Synopsis: Grandparent and great-grandparent visitation. Allows great-grandparents to seek visitation rights with their great-grandchildren in certain circumstances. Allows a grandparent or great-grandparent to seek visitation if the grandparent or great-grandparent has had meaningful contact with the child but, as a result of an estrangement between the parent of the child and the grandparent or great-grandparent, the parent of the child terminated the child's visits with the grandparent or great-grandparent. Establishes factors for the court to consider in determining whether granting a grandparent or great-grandparent visitation rights is in the best interests of the child. Provides that a court may order a party to an action for grandparent or great-grandparent visitation to pay a reasonable amount for the cost to the other party of maintaining or defending the action, including costs for attorney's fees and mediation. Specifies that certain agencies are not required to pay costs. Makes conforming changes.

Effective: Upon passage.

Randolph Lonnie M

January 3, 2019, read first time and referred to Committee on Judiciary.



First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

SENATE BILL No. 106

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 31-9-2-48.3, AS ADDED BY P.L.50-2006,
- 2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 3 UPON PASSAGE]: Sec. 48.3. "Grandparent **or great-grandparent**
- 4 visitation", for purposes of IC 31-17-2.2, means visitation rights
- 5 granted to a grandparent **or great-grandparent** under IC 31-17-5.
- 6 SECTION 2. IC 31-14-14-3 IS AMENDED TO READ AS
- 7 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. An order
- 8 granting or denying visitation rights to a noncustodial parent does not
- 9 affect visitation rights granted to a grandparent **or great-grandparent**
- 10 under IC 31-17-5-1 or IC 31-17-5-10 (or IC 31-1-11.7-2 before its
- 11 repeal).
- 12 SECTION 3. IC 31-17-2.2-1, AS ADDED BY P.L.50-2006,
- 13 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 14 UPON PASSAGE]: Sec. 1. (a) A relocating individual must file a
- 15 notice of the intent to move with the clerk of the court that:
- 16 (1) issued the custody order or parenting time order; or
- 17 (2) if subdivision (1) does not apply, has jurisdiction over the



- 1 legal proceedings concerning the custody of or parenting time
 2 with a child;
 3 and send a copy of the notice to any nonrelocating individual.
- 4 (b) Upon motion of a party, the court shall set the matter for a
 5 hearing to review and modify, if appropriate, a custody order, parenting
 6 time order, grandparent **or great-grandparent** visitation order, or
 7 child support order. The court shall take into account the following in
 8 determining whether to modify a custody order, parenting time order,
 9 grandparent **or great-grandparent** visitation order, or child support
 10 order:
- 11 (1) The distance involved in the proposed change of residence.
 - 12 (2) The hardship and expense involved for the nonrelocating
 13 individual to exercise parenting time or grandparent **or**
 14 **great-grandparent** visitation.
 - 15 (3) The feasibility of preserving the relationship between the
 16 nonrelocating individual and the child through suitable parenting
 17 time and grandparent **or great-grandparent** visitation
 18 arrangements, including consideration of the financial
 19 circumstances of the parties.
 - 20 (4) Whether there is an established pattern of conduct by the
 21 relocating individual, including actions by the relocating
 22 individual to either promote or thwart a nonrelocating individual's
 23 contact with the child.
 - 24 (5) The reasons provided by the:
 - 25 (A) relocating individual for seeking relocation; and
 - 26 (B) nonrelocating parent for opposing the relocation of the
 27 child.
 - 28 (6) Other factors affecting the best interest of the child.
- 29 (c) The court may award reasonable attorney's fees for a motion
 30 filed under this section in accordance with IC 31-15-10.
- 31 SECTION 4. IC 31-17-2.2-2, AS ADDED BY P.L.50-2006,
 32 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 33 UPON PASSAGE]: Sec. 2. (a) If a party provides notice of relocation
 34 at an initial hearing to determine custody, the court may consider the
 35 factors set forth in this chapter in the court's initial custody
 36 determination.
- 37 (b) The court may consider a proposed relocation of a child as a
 38 factor in determining whether to modify a custody order, parenting time
 39 order, grandparent **or great-grandparent** visitation order, or child
 40 support order.
- 41 SECTION 5. IC 31-17-2.2-3, AS AMENDED BY P.L.1-2007,
 42 SECTION 194, IS AMENDED TO READ AS FOLLOWS



1 [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) Except as provided in
 2 section 4 of this chapter, an individual required to file a notice under
 3 IC 31-14-13-10 or section 1 of this chapter must:

- 4 (1) send the notice to each nonrelocating individual:
 5 (A) by registered or certified mail; and
 6 (B) not later than ninety (90) days before the date that the
 7 relocating individual intends to move; and
 8 (2) provide the following information in the notice:
 9 (A) The intended new residence, including the:
 10 (i) address; and
 11 (ii) mailing address of the relocating individual, if the
 12 mailing address is different than the address under item (i).
 13 (B) The home telephone number of the new residence.
 14 (C) Any other applicable telephone number for the relocating
 15 individual.
 16 (D) The date that the relocating individual intends to move.
 17 (E) A brief statement of the specific reasons for the proposed
 18 relocation of the child.
 19 (F) A proposal for a revised schedule of parenting time or
 20 grandparent **or great-grandparent** visitation with the child.
 21 (G) A statement that a parent must file an objection to the
 22 relocation of the child with the court not later than sixty (60)
 23 days after receipt of the notice.
 24 (H) A statement that a nonrelocating individual may file a
 25 petition to modify a custody order, parenting time order,
 26 grandparent **or great-grandparent** visitation order, or child
 27 support order.

28 (b) Except as provided in section 4 of this chapter, if the relocating
 29 individual is unable to provide the information required under
 30 subsection (a)(2) not later than ninety (90) days before the relocating
 31 individual intends to move, the relocating individual shall provide the
 32 information in the manner required under subsection (a) not later than
 33 ten (10) days after the date that the relocating individual obtains the
 34 information required to be provided under subsection (a)(2). However,
 35 the relocating individual must provide all the information required
 36 under subsection (a)(2) not later than thirty (30) days before the
 37 relocating individual intends to move to the new residence.

38 SECTION 6. IC 31-17-5-1 IS AMENDED TO READ AS
 39 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) A child's
 40 grandparent **or great-grandparent** may seek visitation rights if:

- 41 (1) the child's parent is deceased;
 42 (2) the marriage of the child's parents has been dissolved in



1 Indiana; ~~or~~

2 (3) subject to subsection (b), the child was born out of wedlock;
3 ~~or~~

4 **(4) subject to subsection (b), the grandparent or**
5 **great-grandparent has had meaningful contact with the child**
6 **but, as a result of an estrangement between the parent of the**
7 **child and the grandparent or great-grandparent, the parent**
8 **of the child terminated the child's visits with the grandparent**
9 **or great-grandparent.**

10 (b) A court may not grant visitation rights **under subsection (a)(3)**
11 **or (a)(4)** to a paternal grandparent **or paternal great-grandparent** of
12 a child who is born out of wedlock ~~under subsection (a)(3)~~ if the child's
13 father has not established paternity in relation to the child.

14 SECTION 7. IC 31-17-5-2 IS AMENDED TO READ AS
15 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The court
16 may grant visitation rights if the court determines that visitation rights
17 are in the best interests of the child. **In determining the best interests**
18 **of the child, the court shall consider all relevant factors, including**
19 **the following:**

20 (1) **The age and sex of the child.**

21 (2) **The wishes of the child's parent, parents, grandparent,**
22 **grandparents, great-grandparent, or great-grandparents.**

23 (3) **The wishes of the child, with more consideration given to**
24 **the child's wishes if the child is at least fourteen (14) years of**
25 **age.**

26 (4) **The interaction and interrelationship of the child with:**

27 (A) **the child's parent or parents; and**

28 (B) **the child's grandparent, grandparents,**
29 **great-grandparent, or great-grandparents.**

30 (5) **The mental and physical health of all individuals involved.**

31 (6) **Evidence of a pattern of domestic or family violence by the**
32 **child's grandparent, grandparents, great-grandparent, or**
33 **great-grandparents.**

34 (7) **Evidence that the child has been cared for by the child's**
35 **grandparent, grandparents, great-grandparent, or**
36 **great-grandparents.**

37 (b) In determining the best interests of the child under this section
38 **with regard to a grandparent or great-grandparent seeking**
39 **visitation under section 1(a)(1) through 1(a)(3) of this chapter,** the
40 court may consider whether a grandparent **or great-grandparent** has
41 had or has attempted to have meaningful contact with the child.

42 (c) The court may interview the child in chambers to assist the court



1 in determining the child's perception of whether visitation by a
2 grandparent **or great-grandparent** is in the best interests of the child.

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

- 5 (1) a record may be made of the interview; and
6 (2) the interview may be made part of the record for purposes of
7 appeal.

8 SECTION 8. IC 31-17-5-3, AS AMENDED BY P.L.16-2017,
9 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
10 UPON PASSAGE]: Sec. 3. (a) A proceeding for grandparent's **or**
11 **great-grandparent's** visitation must be commenced by the filing of a
12 petition entitled, "In Re the visitation of _____". The petition
13 must:

- 14 (1) be filed by a grandparent **or great-grandparent** entitled to
15 receive visitation rights under this chapter;
16 (2) be verified; and
17 (3) set forth the following:
18 (A) The names and relationship of:
19 (i) the petitioning grandparent, ~~or~~ grandparents,
20 **great-grandparent, or great-grandparents;**
21 (ii) each child with whom visitation is sought; and
22 (iii) the ~~custodial~~ parent or guardian of each child.
23 (B) The present address of each person named in clause (A).
24 (C) The date of birth of each child with whom visitation is
25 sought.
26 (D) The status under section 1 of this chapter upon which the
27 grandparent **or great-grandparent** seeks visitation.
28 (E) The relief sought.

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

31 SECTION 9. IC 31-17-5-4, AS AMENDED BY P.L.50-2006,
32 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
33 UPON PASSAGE]: Sec. 4. A grandparent **or great-grandparent**
34 seeking visitation rights shall file a petition requesting reasonable
35 visitation rights:

- 36 (1) **except as provided in subdivision (2),** in a circuit, superior,
37 or probate court of the county in which the child resides in a case
38 described in ~~section 1(a)(1), 1(a)(3), or section 1(a) or~~ 10 of this
39 chapter; or
40 (2) in the court having jurisdiction over the dissolution of the
41 parents' marriage ~~in a case described in section 1(a)(2) of this~~
42 ~~chapter.~~ **if the marriage of the child's parents has been**



1 **dissolved in Indiana.**

2 SECTION 10. IC 31-17-5-10, AS AMENDED BY P.L.138-2007,
3 SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 UPON PASSAGE]: Sec. 10. If the marriage of the child's parents has
5 been dissolved in another state, the child's maternal or paternal
6 grandparent **or the child's great-grandparent** may seek visitation
7 rights if:

- 8 (1) the custody decree entered in the action for dissolution of
9 marriage does not bind the grandparent **or great-grandparent**
10 under IC 31-21-3-1 (or IC 31-17-3-12 before its repeal); and
11 (2) an Indiana court would have jurisdiction under IC 31-21-5-1
12 (or IC 31-17-3-3 before its repeal), IC 31-21-5-2, or IC 31-21-5-3
13 (or IC 31-17-3-14 before its repeal) to grant visitation rights to the
14 grandparent **or great-grandparent** in a modification decree.

15 SECTION 11. IC 31-17-7-1 IS AMENDED TO READ AS
16 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) The court
17 periodically may order a party to pay a reasonable amount for the cost
18 to the other party of maintaining or defending any proceeding under
19 IC 31-17-2, IC 31-17-4, **IC 31-17-5**, IC 31-17-6, or this chapter and for
20 attorney's fees and mediation services, including amounts for legal
21 services provided and costs incurred before the commencement of the
22 proceedings or after entry of judgment.

23 (b) The court may order the amount to be paid directly to the
24 attorney, who may enforce the order in the attorney's name.

25 SECTION 12. IC 31-17-7-2, AS AMENDED BY P.L.145-2006,
26 SECTION 241, IS AMENDED TO READ AS FOLLOWS
27 [EFFECTIVE UPON PASSAGE]: Sec. 2. Neither costs nor attorney's
28 fees may be taxed against an agency or its agents that is authorized to
29 maintain proceedings under IC 31-17-2, IC 31-17-4, **IC 31-17-5**,
30 IC 31-17-6, or this chapter by Title IV-D of the federal Social Security
31 Act (42 U.S.C. 651 through 669) and IC 31-25-4-17.

32 SECTION 13. IC 31-19-2.5-3, AS AMENDED BY P.L.190-2017,
33 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
34 UPON PASSAGE]: Sec. 3. (a) Except as provided in section 4 of this
35 chapter, notice must be given to a:

- 36 (1) person whose consent to adoption is required under
37 IC 31-19-9-1;
38 (2) putative father who is entitled to notice under IC 31-19-4; and
39 (3) grandparent **or great-grandparent** described in
40 IC 31-19-4.5-1(3) of a child sought to be adopted.

41 (b) If the parent-child relationship has been terminated under
42 IC 31-35 (or IC 31-6-5 before its repeal), notice of the pendency of the



1 adoption proceedings shall be given to the:

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

4 of which the child is a ward.

5 SECTION 14. IC 31-19-4.5-1, AS AMENDED BY P.L.190-2017,
 6 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 7 UPON PASSAGE]: Sec. 1. This chapter:

- 8 (1) shall not be construed to affect notice of an adoption provided
 9 to a putative father under IC 31-19-4;
 10 (2) applies to a father who has abandoned, failed to support, or
 11 failed to communicate with a child; and
 12 (3) except for section 3 of this chapter, applies to a grandparent
 13 **or great-grandparent** who:

14 (A) is the grandparent **or great-grandparent** of a child sought
 15 to be adopted; and

16 (B) has:

- 17 (i) an existing right to petition for visitation under
 18 IC 31-17-5; and
 19 (ii) a right to visitation that will not be terminated after the
 20 adoption under IC 31-17-5-9;

21 at a time prior to the date of the filing of the petition for
 22 adoption.

23 SECTION 15. IC 31-19-4.5-1.5, AS ADDED BY P.L.190-2017,
 24 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 25 UPON PASSAGE]: Sec. 1.5. A notice to a grandparent **or**
 26 **great-grandparent** required under IC 31-19-2.5-3(a)(3) is:

- 27 (1) limited to the issue of visitation and may not be used to
 28 contest an adoption; and
 29 (2) not required if the child to be adopted has been placed in the
 30 care, custody, or control of the department.

31 SECTION 16. **An emergency is declared for this act.**

