

SENATE BILL No. 310

DIGEST OF INTRODUCED BILL

Citations Affected: IC 31-19; IC 31-34-21-5.7.

Synopsis: Adoption subsidies. Prohibits the department of child services (department), a licensed child placing agency, or a court from considering the following when making certain determinations regarding the suitability of a prospective adoptive parent: (1) The eligibility of the prospective adoptive parent to receive adoption assistance or an adoption subsidy. (2) The amount of adoption assistance or adoption subsidy for which the prospective adoptive parent qualifies. Requires, with exceptions, the 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. Provides that the amount of adoption subsidy payments may not be less than an amount equal to 50% of the amount that would be payable by the department for the monthly cost of care of the adopted child in a foster family home at the time the adoption subsidy agreement is made or the subsidy is payable under the terms of the agreement, whichever is greater. Makes conforming changes.

Effective: July 1, 2020.

Niezgodski, Ford Jon

January 13, 2020, read first time and referred to Committee on Health and Provider Services.



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. 310

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 31-19-7-1, AS AMENDED BY P.L.128-2012,
2 SECTION 48, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2020]: Sec. 1. (a) A child may not be placed in a proposed
4 adoptive home without the prior written approval of a licensed child
5 placing agency or the local office approved for that purpose by the
6 department.
7 (b) Except as provided in subsection (d), before giving prior written
8 approval for placement in a proposed adoptive home of a child, a
9 licensed child placing agency or the department of child services shall
10 conduct a criminal history check (as defined in IC 31-9-2-22.5)
11 concerning the proposed adoptive parent and any other person who is
12 currently residing in the proposed adoptive home.
13 (c) The prospective adoptive parent shall pay the fees and other
14 costs of the criminal history check required under this section.
15 (d) A licensed child placing agency or the department of child
16 services is not required to conduct a criminal history check (as defined
17 in IC 31-9-2-22.5) if a prospective adoptive parent provides the



1 licensed child placing agency or the local office with the results of a
2 criminal history check conducted:

- 3 (1) in accordance with IC 31-9-2-22.5; and
4 (2) not more than one (1) year before the date on which the
5 licensed child placing agency or the local office provides written
6 approval for the placement.

7 **(e) A licensed child placing agency or local office may not**
8 **consider:**

9 **(1) the prospective adoptive parent's eligibility for:**

10 **(A) adoption assistance under 42 U.S.C. 673, including**
11 **applicable federal and state regulations; or**

12 **(B) an adoption subsidy under IC 31-19-26.5; or**

13 **(2) the amount of adoption assistance or adoption subsidy**
14 **under subdivision (1) for which the prospective adoptive**
15 **parent qualifies;**

16 **when determining whether to place a child in a proposed adoptive**
17 **home under this section.**

18 SECTION 2. IC 31-19-11-1, AS AMENDED BY P.L.243-2019,
19 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
20 JULY 1, 2020]: Sec. 1. (a) Whenever the court has heard the evidence
21 and finds that:

- 22 (1) the adoption requested is in the best interest of the child;
23 (2) the petitioner or petitioners for adoption are of sufficient
24 ability to rear the child and furnish suitable support and
25 education;
26 (3) the report of the investigation and recommendation under
27 IC 31-19-8-5 has been filed;
28 (4) the attorney or agency arranging an adoption has filed with the
29 court an affidavit prepared by the state department of health under
30 IC 31-19-5-16 indicating whether a man is entitled to notice of the
31 adoption because the man has registered with the putative father
32 registry in accordance with IC 31-19-5;
33 (5) proper notice arising under subdivision (4), if notice is
34 necessary, of the adoption has been given;
35 (6) the attorney or agency has filed with the court an affidavit
36 prepared by the state department of health under:
37 (A) IC 31-19-6 indicating whether a record of a paternity
38 determination; or
39 (B) IC 16-37-2-2(g) indicating whether a paternity affidavit
40 executed under IC 16-37-2-2.1;
41 has been filed in relation to the child;
42 (7) proper consent, if consent is necessary, to the adoption has



1 been given;

2 (8) the petitioner for adoption is not prohibited from adopting the

3 child as the result of an inappropriate criminal history described

4 in subsection (c) or (d); and

5 (9) the person, licensed child placing agency, or local office that

6 has placed the child for adoption has provided the documents and

7 other information required under IC 31-19-17 to the prospective

8 adoptive parents;

9 the court shall grant the petition for adoption and enter an adoption

10 decre.

11 (b) A court may not grant an adoption unless the state department

12 of health's affidavit under IC 31-19-5-16 is filed with the court as

13 provided under subsection (a)(4).

14 (c) A juvenile adjudication for an act listed in IC 31-9-2-84.8 that

15 would be a felony if committed by an adult, a conviction of a

16 misdemeanor related to the health and safety of a child, or a conviction

17 of a felony not listed in IC 31-9-2-84.8 by a petitioner for adoption or

18 household member is a permissible basis for the court to deny the

19 petition for adoption. In addition, the court may not grant an adoption

20 if a petitioner for adoption has been convicted of a nonwaivable offense

21 under IC 31-9-2-84.8. However, the court is not prohibited from

22 granting an adoption based upon a felony conviction for:

23 (1) a felony under IC 9-30-5;

24 (2) battery (IC 35-42-2-1);

25 (3) criminal recklessness (IC 35-42-2-2) as a felony;

26 (4) criminal confinement (IC 35-42-3-3);

27 (5) arson (IC 35-43-1-1);

28 (6) nonsupport of a dependent child (IC 35-46-1-5);

29 (7) operating a motorboat while intoxicated (IC 35-46-9-6) as a

30 felony;

31 (8) a felony involving a weapon under IC 35-47;

32 (9) a felony relating to controlled substances under IC 35-48-4;

33 (10) attempt to commit a felony listed in subdivisions (1) through

34 (9); or

35 (11) a felony that is substantially equivalent to a felony listed in

36 this section for which the conviction was entered in another

37 jurisdiction;

38 if the date of the conviction did not occur within the immediately

39 preceding five (5) year period.

40 (d) A court may not grant an adoption if the petitioner is a sex or

41 violent offender (as defined in IC 11-8-8-5) or a sexually violent

42 predator (as defined in IC 35-38-1-7.5).



1 (e) A court may not take into account the following in
 2 determining whether to grant a petition for adoption:

3 (1) The petitioner's eligibility for:

4 (A) adoption assistance under 42 U.S.C. 673, including
 5 applicable federal and state regulations; or

6 (B) an adoption subsidy under IC 31-19-26.5.

7 (2) The amount of adoption assistance or adoption subsidy
 8 under subdivision (1) for which the petitioner qualifies.

9 SECTION 3. IC 31-19-26.5-3, AS ADDED BY P.L.146-2008,
 10 SECTION 562, IS AMENDED TO READ AS FOLLOWS
 11 [EFFECTIVE JULY 1, 2020]: Sec. 3. (a) **Subject to section 4 of this**
 12 **chapter**, the department ~~may~~ **shall** make payments of adoption subsidy
 13 under this chapter for the benefit of a child with special needs if the
 14 department has:

15 (1) either:

16 (A) entered into a written agreement **under section 10.5 of**
 17 **this chapter** with the adoptive parent or parents, before or at
 18 the time the court enters a final decree of adoption under
 19 IC 31-19-11-1, that specifies the amount, terms, and
 20 conditions of the adoption assistance payments; or

21 (B) received a written final order in an administrative appeal
 22 in accordance with section 12(4) of this chapter concluding
 23 that the adoptive parents are eligible for a subsidy payable
 24 under this chapter and determining the appropriate subsidy
 25 amount; **and**

26 (2) ~~determined that sufficient funds are available in the adoption~~
 27 ~~assistance account of the state general fund, and can reasonably~~
 28 ~~be anticipated to be available in that account during the term of~~
 29 ~~the agreement or order, to make the payments as specified in the~~
 30 ~~agreement or order; and~~

31 (3) ~~(2)~~ **(2)** determined that the child is not eligible for adoption
 32 assistance under 42 U.S.C. 673.

33 **(b) This section does not prohibit the department from**
 34 **modifying or terminating an agreement with the adoptive parent**
 35 **or parents under this chapter. However, the department may not**
 36 **terminate an agreement with the adoptive parent or parents due to**
 37 **insufficient funds in the adoption assistance account.**

38 SECTION 4. IC 31-19-26.5-5, AS ADDED BY P.L.146-2008,
 39 SECTION 562, IS AMENDED TO READ AS FOLLOWS
 40 [EFFECTIVE JULY 1, 2020]: Sec. 5. The amount of adoption subsidy
 41 payments under this chapter:

42 (1) may not be less than an amount equal to fifty percent



1 **(50%) of; and**
 2 **(2) may not** exceed;
 3 the amount that would be payable by the department for the monthly
 4 cost of care of the adopted child in a foster family home at the time
 5 (+) the adoption subsidy agreement is made or
 6 (2) **at the time** the subsidy is payable under the terms of the
 7 agreement,
 8 whichever is greater.

9 SECTION 5. IC 31-19-26.5-10, AS ADDED BY P.L.146-2008,
 10 SECTION 562, IS AMENDED TO READ AS FOLLOWS
 11 [EFFECTIVE JULY 1, 2020]: Sec. 10. An adoption assistance account
 12 is established within the state general fund for the purpose of funding
 13 adoption subsidy payments under this chapter and the state's share of
 14 adoption assistance payments under 42 U.S.C. 673. The account
 15 consists of:

- 16 (1) amounts specifically appropriated to the department by the
 17 general assembly for adoption assistance;
 18 (2) amounts allocated by the department to the adoption
 19 assistance account from ~~the department funds available to the~~
 20 ~~department; in accordance with section 10.5 of this chapter;~~
 21 and
 22 (3) any other amounts contributed or paid to the department for
 23 adoption assistance under this chapter.

24 SECTION 6. IC 31-19-26.5-10.5 IS ADDED TO THE INDIANA
 25 CODE AS A **NEW SECTION** TO READ AS FOLLOWS
 26 [EFFECTIVE JULY 1, 2020]: **Sec. 10.5. (a) Subject to section 4 of**
 27 **this chapter, the department shall:**

28 **(1) enter into a written agreement described under section**
 29 **3(a)(1)(A) of this chapter with each adoptive parent of a child**
 30 **with special needs who is eligible for an adoption subsidy**
 31 **under this chapter; and**

32 **(2) allocate funds to the adoption assistance account necessary**
 33 **to meet the requirements under section 3 of this chapter.**

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

36 **(1) make additional payments under section 6 of this chapter;**
 37 **or**

38 **(2) continue adoption subsidy payments under section 9(b) of**
 39 **this chapter.**

40 SECTION 7. IC 31-19-26.5-11, AS ADDED BY P.L.146-2008,
 41 SECTION 562, IS AMENDED TO READ AS FOLLOWS
 42 [EFFECTIVE JULY 1, 2020]: Sec. 11. (a) ~~In determining the~~



1 availability of funds in the adoption assistance account for payments of
 2 adoption subsidies under this chapter, **Subject to sections 3 and 10.5**
 3 **of this chapter**, the department shall give priority to payments required
 4 by court orders for county adoption subsidies entered under
 5 IC 31-19-26 (before its repeal).

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

10 SECTION 8. IC 31-19-26.5-12, AS ADDED BY P.L.146-2008,
 11 SECTION 562, IS AMENDED TO READ AS FOLLOWS
 12 [EFFECTIVE JULY 1, 2020]: Sec. 12. The department shall adopt
 13 rules under IC 4-22-2, as needed, to carry out this chapter. The rules
 14 must include at least the following subjects:

15 (1) The application and determination process for subsidies or
 16 other assistance provided under this chapter.

17 (2) The standards for determination of a child with special needs.

18 (3) The process for determining the duration, extension,
 19 modification, and termination of agreements, as provided in
 20 sections 8 and 9 of this chapter.

21 (4) The procedure for administrative review and appeal of
 22 determinations made by the department under this chapter.

23 (5) **Subject to sections 3 and 10.5 of this chapter**, the procedure
 24 for determining availability of funds for new subsidy agreements
 25 and continuation of existing agreements or orders under this
 26 chapter and IC 31-19-26 (before its repeal), including any funding
 27 limitations or priorities as provided in sections 4 and 11 of this
 28 chapter.

29 SECTION 9. IC 31-34-21-5.7, AS AMENDED BY P.L.48-2012,
 30 SECTION 65, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 31 JULY 1, 2020]: Sec. 5.7. (a) This section applies at any phase of a child
 32 in need of services proceeding whenever a court enters a finding that
 33 reasonable efforts to reunify or preserve a child's family are not
 34 required under section 5.6 of this chapter.

35 (b) The department shall do the following:

36 (1) Complete a permanency plan for the child that complies with
 37 the requirements of section 7.5 of this chapter.

38 (2) Seek court approval of the permanency plan under section 7
 39 of this chapter.

40 (3) Refer a case to the permanency roundtable if the department
 41 places a child in a child caring institution, group home, or private
 42 secure facility.



1 (c) Notwithstanding any otherwise applicable requirements under
2 IC 31-34, whenever the department seeks approval of a permanency
3 plan for the child under subsection (b), the following reports, orders,
4 and hearings are not required:

5 (1) A predispositional report to consider participation of a child's
6 parent, guardian, or custodian in any program of care, treatment,
7 or rehabilitation of the child.

8 (2) A dispositional decree under IC 31-34-19-6 and findings and
9 conclusions under IC 31-34-19-10 that concern:

10 (A) participation of the child's parent, guardian, or custodian
11 in a program for future care or treatment of the child; or

12 (B) reasonable efforts to prevent the child's removal from the
13 child's home or to reunite the child with the child's parent,
14 guardian, or custodian.

15 **(d) When considering placement of a child for adoption as a**
16 **permanent living arrangement under the child's permanency plan,**
17 **the department may not consider:**

18 **(1) a prospective adoptive parent's eligibility for:**

19 **(A) adoption assistance under 42 U.S.C. 673, including**
20 **applicable federal and state regulations; or**

21 **(B) an adoption subsidy under IC 31-19-26.5; or**

22 **(2) the amount of adoption assistance or adoption subsidy**
23 **under subdivision (1) for which a prospective adoptive parent**
24 **qualifies.**

