

SENATE BILL No. 393

DIGEST OF INTRODUCED BILL

Citations Affected: IC 31-9-2; IC 31-14-7-1; IC 31-19-9-1.

Synopsis: Presumption of parenthood. Adds a presumption that the female spouse of a child's biological mother is presumed to be a child's mother if the female spouse and the child's biological mother are or have been married to each other, and the child is born during, or not later than 300 days after the termination of, the marriage. Makes conforming technical amendments.

Effective: July 1, 2017.

Stoops

January 10, 2017, read first time and referred to Committee on Civil Law.



First Regular Session 120th General Assembly (2017)

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 2016 Regular Session of the General Assembly.

SENATE BILL No. 393

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 31-9-2-15 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 15. "Child born in
3 wedlock", for purposes of IC 31-19-9, means a child born to **a woman**
4 **and:**

5 (1) ~~a woman; and~~
6 (2) **(1) a man who is presumed to be the child's father under**
7 ~~IC 31-14-7-1(1) or IC 31-14-7-1(2)~~ **IC 31-14-7-1(a)(1) or**
8 **IC 31-14-7-1(a)(2); or**
9 **(2) the woman's female spouse who is presumed to be the**
10 **child's mother under IC 31-14-7-1(b)(1) or IC 31-14-7-1(b)(2);**
11 unless the presumption is rebutted.

12 SECTION 2. IC 31-9-2-16 IS AMENDED TO READ AS
13 FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 16. "Child born out of
14 wedlock", for purposes of IC 31-19-3, IC 31-19-4-4, and IC 31-19-9,
15 means a child who is born to:

16 (1) a woman; and
17 (2) a man who is not presumed to be the child's father under



1 ~~IC 31-14-7-1(1)~~ **IC 31-14-7-1(a)(1)** or ~~IC 31-14-7-1(2)~~.
 2 **IC 31-14-7-1(a)(2).**

3 SECTION 3. IC 31-9-2-100 IS AMENDED TO READ AS
 4 FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 100. "Putative father",
 5 for purposes of IC 31-19 and IC 31-35-1, means a male of any age who
 6 is alleged to be or claims that he may be a child's father but who:

- 7 (1) is not presumed to be the child's father under ~~IC 31-14-7-1(1)~~
 8 **IC 31-14-7-1(a)(1)** or ~~IC 31-14-7-1(2)~~; **IC 31-14-7-1(a)(2)**; and
 9 (2) has not established paternity of the child:
 10 (A) in a court proceeding; or
 11 (B) by executing a paternity affidavit under IC 16-37-2-2.1;
 12 before the filing of an adoption petition.

13 SECTION 4. IC 31-14-7-1 IS AMENDED TO READ AS
 14 FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 1. **(a)** A man is
 15 presumed to be a child's biological father if:

- 16 (1) the:
 17 (A) man and the child's biological mother are or have been
 18 married to each other; and
 19 (B) child is born during the marriage or not later than three
 20 hundred (300) days after the marriage is terminated by death,
 21 annulment, or dissolution;
 22 (2) the:
 23 (A) man and the child's biological mother attempted to marry
 24 each other by a marriage solemnized in apparent compliance
 25 with the law, even though the marriage:
 26 (i) is void under IC 31-11-8-2, IC 31-11-8-3, IC 31-11-8-4,
 27 or IC 31-11-8-6; or
 28 (ii) is voidable under IC 31-11-9; and
 29 (B) child is born during the attempted marriage or not later
 30 than three hundred (300) days after the attempted marriage is
 31 terminated by death, annulment, or dissolution; or
 32 (3) the man undergoes a genetic test that indicates with at least a
 33 ninety-nine percent (99%) probability that the man is the child's
 34 biological father.

35 **(b) The female spouse of a child's biological mother is presumed**
 36 **to be a child's mother if:**

- 37 (1) the:
 38 (A) **female spouse and the child's biological mother are or**
 39 **have been married to each other; and**
 40 (B) **child is born during the marriage or not later than**
 41 **three hundred (300) days after the marriage is terminated**
 42 **by death, annulment, or dissolution; or**



1 (2) the:

2 (A) female spouse and the child's biological mother
3 attempted to marry each other by a marriage solemnized
4 in apparent compliance with the law, even though the
5 marriage:

6 (i) is void under IC 31-11-8-2, IC 31-11-8-3, IC 31-11-8-4,
7 or IC 31-11-8-6; or

8 (ii) is voidable under IC 31-11-9; and

9 (B) child is born during the attempted marriage or not
10 later than three hundred (300) days after the attempted
11 marriage is terminated by death, annulment, or
12 dissolution.

13 SECTION 5. IC 31-19-9-1, AS AMENDED BY P.L.128-2012,
14 SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
15 JULY 1, 2017]: Sec. 1. (a) Except as otherwise provided in this
16 chapter, a petition to adopt a child who is less than eighteen (18) years
17 of age may be granted only if written consent to adoption has been
18 executed by the following:

19 (1) Each living parent of a child born in wedlock, including:

20 (A) a man who is presumed to be the child's biological father
21 under ~~IC 31-14-7-1(1)~~ IC 31-14-7-1(a)(1) if the man is the
22 biological or adoptive parent of the child; or

23 (B) the child's biological mother's female spouse who is
24 presumed to be the child's mother under
25 IC 31-14-7-1(b)(1).

26 (2) The mother of a child born out of wedlock and the father of a
27 child whose paternity has been established by:

28 (A) a court proceeding other than the adoption proceeding,
29 except as provided in IC 31-14-20-2; or

30 (B) a paternity affidavit executed under IC 16-37-2-2.1;
31 unless the putative father gives implied consent to the adoption
32 under section 15 of this chapter.

33 (3) Each person, agency, or local office having lawful custody of
34 the child whose adoption is being sought.

35 (4) The court having jurisdiction of the custody of the child if the
36 legal guardian or custodian of the person of the child is not
37 empowered to consent to the adoption.

38 (5) The child to be adopted if the child is more than fourteen (14)
39 years of age.

40 (6) The spouse of the child to be adopted if the child is married.

41 (b) A parent who is less than eighteen (18) years of age may consent
42 to an adoption without the concurrence of:



- 1 (1) the individual's parent or parents; or
- 2 (2) the guardian of the individual's person;
- 3 unless the court, in the court's discretion, determines that it is in the
- 4 best interest of the child to be adopted to require the concurrence.

