



April 2, 2019

ENGROSSED
SENATE BILL No. 323

DIGEST OF SB 323 (Updated April 1, 2019 12:22 pm - DI 133)

Citations Affected: IC 31-14; IC 31-17.

Synopsis: Parenting time. Authorizes a court to require a parent to submit to drug testing as a condition of exercising parenting time rights if the court finds that: (1) the parent has a history of unlawful drug use within the previous five years; or (2) there is a reasonable likelihood that the parent is currently using unlawful drugs. Specifies that the parent shall pay the costs of the drug testing. Provides that, if a court grants parenting time to a person who has been convicted of: (1) child molesting; or (2) child exploitation; within the previous five years, the court shall order that the parenting time must be supervised.

Effective: July 1, 2019.

Crider, Young M, Head, Lanane,
Bohacek, Glick, Koch, Freeman,
Buck, Rogers, Mrvan,
Randolph Lonnie M, Zay

(HOUSE SPONSORS — CHERRY, FRYE R, TORR, DVORAK)

January 7, 2019, read first time and referred to Committee on Judiciary.
February 21, 2019, amended, reported favorably — Do Pass.
February 25, 2019, read second time, ordered engrossed. Engrossed.
February 26, 2019, read third time, passed. Yeas 49, nays 0.

HOUSE ACTION

March 4, 2019, read first time and referred to Committee on Judiciary.
April 1, 2019, reported — Do Pass.

ES 323—LS 6587/DI 106



April 2, 2019

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.

ENGROSSED SENATE BILL No. 323

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 31-14-14-1, AS AMENDED BY P.L.13-2016,
2 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2019]: Sec. 1. (a) A noncustodial parent is entitled to
4 reasonable parenting time rights unless the court finds, after a hearing,
5 that parenting time might:
6 (1) endanger the child's physical health and well-being; or
7 (2) significantly impair the child's emotional development.
8 (b) The court may interview the child in chambers to assist the court
9 in determining the child's perception of whether parenting time by the
10 noncustodial parent might endanger the child's physical health or
11 significantly impair the child's emotional development.
12 (c) In a hearing under subsection (a), there is a rebuttable
13 presumption that a person who has been convicted of:
14 (1) child molesting (IC 35-42-4-3); or
15 (2) child exploitation (IC 35-42-4-4(b) or IC 35-42-4-4(c));
16 might endanger the child's physical health and well-being or
17 significantly impair the child's emotional development.

ES 323—LS 6587/DI 106



1 (d) **Except as provided in subsection (e)**, if a court grants
2 parenting time rights to a person who has been convicted of:

3 (1) child molesting (IC 35-42-4-3); or

4 (2) child exploitation (IC 35-42-4-4(b) or IC 35-42-4-4(c));

5 there is a rebuttable presumption that the parenting time with the child
6 must be supervised.

7 (e) **If a court grants parenting time rights to a person who has
8 been convicted of:**

9 (1) child molesting (IC 35-42-4-3); or

10 (2) child exploitation (IC 35-42-4-4(b) or IC 35-42-4-4(c));

11 **within the previous five (5) years, the court shall order that the
12 parenting time with the child must be supervised.**

13 ~~(e)~~ (f) The court may permit counsel to be present at the interview.
14 If counsel is present:

15 (1) a record may be made of the interview; and

16 (2) the interview may be made part of the record for purposes of
17 appeal.

18 SECTION 2. IC 31-17-2-21.8 IS ADDED TO THE INDIANA
19 CODE AS A NEW SECTION TO READ AS FOLLOWS
20 [EFFECTIVE JULY 1, 2019]: **Sec. 21.8. (a) A court may require that
21 a parent submit to drug testing as a condition of exercising the
22 parent's parenting time if the court finds that:**

23 (1) the parent has a history of unlawful drug use within the
24 previous five (5) years; or

25 (2) there is a reasonable likelihood that the parent is currently
26 using unlawful drugs.

27 (b) **The court shall determine the manner and frequency of the
28 drug testing.**

29 (c) **The parent shall pay the costs of the drug testing.**

30 SECTION 3. IC 31-17-4-1, AS AMENDED BY P.L.68-2005,
31 SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
32 JULY 1, 2019]: Sec. 1. (a) **Subject to subsections (d) and (e)**, a parent
33 not granted custody of the child is entitled to reasonable parenting time
34 rights unless the court finds, after a hearing, that parenting time by the
35 noncustodial parent might endanger the child's physical health or
36 significantly impair the child's emotional development.

37 (b) The court may interview the child in chambers to assist the court
38 in determining the child's perception of whether parenting time by the
39 noncustodial parent might endanger the child's physical health or
40 significantly impair the child's emotional development.

41 (c) The court may permit counsel to be present at the interview. If
42 counsel is present:



- 1 (1) a record may be made of the interview; and
- 2 (2) the interview may be made part of the record for purposes of
- 3 appeal.
- 4 **(d) Except as provided in subsection (e), if a court grants**
- 5 **parenting time rights to a person who has been convicted of:**
- 6 **(1) child molesting (IC 35-42-4-3); or**
- 7 **(2) child exploitation (IC 35-42-4-4(b) or IC 35-42-4-4(c));**
- 8 **there is a rebuttable presumption that the parenting time with the**
- 9 **child must be supervised.**
- 10 **(e) If a court grants parenting time rights to a person who has**
- 11 **been convicted of:**
- 12 **(1) child molesting (IC 35-42-4-3); or**
- 13 **(2) child exploitation (IC 35-42-4-4(b) or IC 35-42-4-4(c));**
- 14 **within the previous five (5) years, the court shall order that the**
- 15 **parenting time with the child must be supervised.**



COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 323, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 31-14-14-1, AS AMENDED BY P.L.13-2016, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 1. (a) A noncustodial parent is entitled to reasonable parenting time rights unless the court finds, after a hearing, that parenting time might:

- (1) endanger the child's physical health and well-being; or
- (2) significantly impair the child's emotional development.

(b) The court may interview the child in chambers to assist the court in determining the child's perception of whether parenting time by the noncustodial parent might endanger the child's physical health or significantly impair the child's emotional development.

(c) In a hearing under subsection (a), there is a rebuttable presumption that a person who has been convicted of:

- (1) child molesting (IC 35-42-4-3); or
- (2) child exploitation (IC 35-42-4-4(b) or IC 35-42-4-4(c));

might endanger the child's physical health and well-being or significantly impair the child's emotional development.

(d) **Except as provided in subsection (e)**, if a court grants parenting time rights to a person who has been convicted of:

- (1) child molesting (IC 35-42-4-3); or
- (2) child exploitation (IC 35-42-4-4(b) or IC 35-42-4-4(c));

there is a rebuttable presumption that the parenting time with the child must be supervised.

(e) If a court grants parenting time rights to a person who has been convicted of:

- (1) child molesting (IC 35-42-4-3); or**
- (2) child exploitation (IC 35-42-4-4(b) or IC 35-42-4-4(c));**

within the previous five (5) years, the court shall order that the parenting time with the child must be supervised.

~~(e)~~ **(f)** The court may permit counsel to be present at the interview. If counsel is present:

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



Page 1, after line 12, begin a new paragraph and insert:

"SECTION 3. IC 31-17-4-1, AS AMENDED BY P.L.68-2005, SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 1. (a) **Subject to subsections (d) and (e)**, a parent not granted custody of the child is entitled to reasonable parenting time rights unless the court finds, after a hearing, that parenting time by the noncustodial parent might endanger the child's physical health or significantly impair the child's emotional development.

(b) The court may interview the child in chambers to assist the court in determining the child's perception of whether parenting time by the noncustodial parent might endanger the child's physical health or significantly impair the child's emotional development.

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

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

(d) Except as provided in subsection (e), if a court grants parenting time rights to a person who has been convicted of:

- (1) child molesting (IC 35-42-4-3); or**
- (2) child exploitation (IC 35-42-4-4(b) or IC 35-42-4-4(c));**

there is a rebuttable presumption that the parenting time with the child must be supervised.

(e) If a court grants parenting time rights to a person who has been convicted of:

- (1) child molesting (IC 35-42-4-3); or**
- (2) child exploitation (IC 35-42-4-4(b) or IC 35-42-4-4(c));**

within the previous five (5) years, the court shall order that the parenting time with the child must be supervised."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 323 as introduced.)

HEAD, Chairperson

Committee Vote: Yeas 8, Nays 0.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred Senate Bill 323, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

(Reference is to SB 323 as printed February 22, 2019.)

TORR

Committee Vote: Yeas 10, Nays 0

