

**IC 31-34**

**ARTICLE 34. JUVENILE LAW: CHILDREN IN NEED OF SERVICES**

**IC 31-34-1**

Chapter 1. Circumstances Under Which a Child Is a Child in Need of Services

**IC 31-34-1-0.1**

**Application of certain amendments to chapter**

Sec. 0.1. The amendments made to section 2 of this chapter by P.L.17-2001 apply only to offenses committed after June 30, 2001.  
*As added by P.L.220-2011, SEC.512.*

**IC 31-34-1-1**

**Inability, refusal, or neglect of parent, guardian, or custodian to supply child with necessary food, clothing, shelter, medical care, education, or supervision**

Sec. 1. A child is a child in need of services if before the child becomes eighteen (18) years of age:

- (1) the child's physical or mental condition is seriously impaired or seriously endangered as a result of the inability, refusal, or neglect of the child's parent, guardian, or custodian to supply the child with necessary food, clothing, shelter, medical care, education, or supervision; and
- (2) the child needs care, treatment, or rehabilitation that:
  - (A) the child is not receiving; and
  - (B) is unlikely to be provided or accepted without the coercive intervention of the court.

*As added by P.L.1-1997, SEC.17. Amended by P.L.2-2005, SEC.76.*

**IC 31-34-1-2**

**Act or omission of parent, guardian, or custodian seriously endangering child's physical or mental health**

Sec. 2. (a) A child is a child in need of services if before the child becomes eighteen (18) years of age:

- (1) the child's physical or mental health is seriously endangered due to injury by the act or omission of the child's parent, guardian, or custodian; and
- (2) the child needs care, treatment, or rehabilitation that:
  - (A) the child is not receiving; and
  - (B) is unlikely to be provided or accepted without the coercive intervention of the court.

(b) Evidence that the illegal manufacture of a drug or controlled substance is occurring on property where a child resides creates a rebuttable presumption that the child's physical or mental health is seriously endangered.

*As added by P.L.1-1997, SEC.17. Amended by P.L.17-2001, SEC.8; P.L.2-2005, SEC.77.*

**IC 31-34-1-3****Victim of sex offense; living in household with victim of sex offense**

Sec. 3. (a) A child is a child in need of services if, before the child becomes eighteen (18) years of age:

- (1) the child is the victim of a sex offense under:
  - (A) IC 35-42-4-1;
  - (B) IC 35-42-4-2;
  - (C) IC 35-42-4-3;
  - (D) IC 35-42-4-4;
  - (E) IC 35-42-4-7;
  - (F) IC 35-42-4-9;
  - (G) IC 35-45-4-1;
  - (H) IC 35-45-4-2;
  - (I) IC 35-46-1-3; or
  - (J) the law of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in clauses (A) through (I); and
- (2) the child needs care, treatment, or rehabilitation that:
  - (A) the child is not receiving; and
  - (B) is unlikely to be provided or accepted without the coercive intervention of the court.

(b) A child is a child in need of services if, before the child becomes eighteen (18) years of age:

- (1) the child lives in the same household as another child who is the victim of a sex offense under:
  - (A) IC 35-42-4-1;
  - (B) IC 35-42-4-2;
  - (C) IC 35-42-4-3;
  - (D) IC 35-42-4-4;
  - (E) IC 35-42-4-7;
  - (F) IC 35-42-4-9;
  - (G) IC 35-45-4-1;
  - (H) IC 35-45-4-2;
  - (I) IC 35-46-1-3; or
  - (J) the law of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in clauses (A) through (I);
- (2) the child lives in the same household as the adult who committed the sex offense under subdivision (1) and the sex offense resulted in a conviction or a judgment under IC 31-34-11-2;
- (3) the child needs care, treatment, or rehabilitation that:
  - (A) the child is not receiving; and
  - (B) is unlikely to be provided or accepted without the coercive intervention of the court; and
- (4) a caseworker assigned to provide services to the child:
  - (A) places the child in a program of informal adjustment or other family or rehabilitative services based upon the existence of the circumstances described in subdivisions (1) and (2) and the assigned caseworker subsequently

determines further intervention is necessary; or  
(B) determines that a program of informal adjustment or other family or rehabilitative services is inappropriate.  
*As added by P.L.1-1997, SEC.17. Amended by P.L.18-2004, SEC.1.*

#### **IC 31-34-1-4**

##### **Parent, guardian, or custodian allowing child's participation in obscene performance**

Sec. 4. A child is a child in need of services if before the child becomes eighteen (18) years of age:

- (1) the child's parent, guardian, or custodian allows the child to participate in an obscene performance (as defined by IC 35-49-2-2 or IC 35-49-3-2); and
- (2) the child needs care, treatment, or rehabilitation that:
  - (A) the child is not receiving; and
  - (B) is unlikely to be provided or accepted without the coercive intervention of the court.

*As added by P.L.1-1997, SEC.17. Amended by P.L.2-2005, SEC.78.*

#### **IC 31-34-1-5**

##### **Parent, guardian, or custodian allowing child to commit sex offense**

Sec. 5. A child is a child in need of services if before the child becomes eighteen (18) years of age:

- (1) the child's parent, guardian, or custodian allows the child to commit a sex offense prohibited by IC 35-45-4; and
- (2) the child needs care, treatment, or rehabilitation that:
  - (A) the child is not receiving; and
  - (B) is unlikely to be provided or accepted without the coercive intervention of the court.

*As added by P.L.1-1997, SEC.17. Amended by P.L.2-2005, SEC.79.*

#### **IC 31-34-1-6**

##### **Child substantially endangering own or another's health**

Sec. 6. A child is a child in need of services if before the child becomes eighteen (18) years of age:

- (1) the child substantially endangers the child's own health or the health of another individual; and
- (2) the child needs care, treatment, or rehabilitation that:
  - (A) the child is not receiving; and
  - (B) is unlikely to be provided or accepted without the coercive intervention of the court.

*As added by P.L.1-1997, SEC.17. Amended by P.L.2-2005, SEC.80.*

#### **IC 31-34-1-7**

##### **Parent, guardian, or custodian failing to participate in school disciplinary proceeding**

Sec. 7. A child is a child in need of services if before the child becomes eighteen (18) years of age:

- (1) the child's parent, guardian, or custodian fails to participate in a disciplinary proceeding in connection with the student's

improper behavior, as provided for by IC 20-33-8-26, if the behavior of the student has been repeatedly disruptive in the school; and

(2) the child needs care, treatment, or rehabilitation that:

(A) the child is not receiving; and

(B) is unlikely to be provided or accepted without the coercive intervention of the court.

*As added by P.L.1-1997, SEC.17. Amended by P.L.1-2005, SEC.203.*

#### **IC 31-34-1-8**

##### **Missing child**

Sec. 8. A child is a child in need of services if before the child becomes eighteen (18) years of age:

(1) the child is a missing child (as defined in IC 10-13-5-4); and

(2) the child needs care, treatment, or rehabilitation that:

(A) the child is not receiving; and

(B) is unlikely to be provided or accepted without the coercive intervention of the court.

*As added by P.L.1-1997, SEC.17. Amended by P.L.2-2003, SEC.73.*

#### **IC 31-34-1-9**

##### **Disabled child deprived of necessary nutrition or medical or surgical intervention**

Sec. 9. A child in need of services under section 1, 2, 3, 4, 5, 6, 7, or 8 of this chapter includes a child with a disability who:

(1) is deprived of nutrition that is necessary to sustain life; or

(2) is deprived of medical or surgical intervention that is necessary to remedy or ameliorate a life threatening medical condition;

if the nutrition or medical or surgical intervention is generally provided to similarly situated children with or without disabilities.

*As added by P.L.1-1997, SEC.17. Amended by P.L.131-2009, SEC.58.*

#### **IC 31-34-1-10**

##### **Child born with fetal alcohol syndrome or with controlled substance or legend drug in child's body**

Sec. 10. Except as provided in sections 12 and 13 of this chapter, a child is a child in need of services if:

(1) the child is born with:

(A) fetal alcohol syndrome; or

(B) any amount, including a trace amount, of a controlled substance or a legend drug in the child's body; and

(2) the child needs care, treatment, or rehabilitation that:

(A) the child is not receiving; or

(B) is unlikely to be provided or accepted without the coercive intervention of the court.

*As added by P.L.1-1997, SEC.17.*

#### **IC 31-34-1-11**

**Risks or injuries arising from use of alcohol, controlled substance, or legend drug by child's mother during pregnancy**

Sec. 11. Except as provided in sections 12 and 13 of this chapter, a child is a child in need of services if:

- (1) the child:
  - (A) has an injury;
  - (B) has abnormal physical or psychological development; or
  - (C) is at a substantial risk of a life threatening condition; that arises or is substantially aggravated because the child's mother used alcohol, a controlled substance, or a legend drug during pregnancy; and
- (2) the child needs care, treatment, or rehabilitation that:
  - (A) the child is not receiving; or
  - (B) is unlikely to be provided or accepted without the coercive intervention of the court.

*As added by P.L.1-1997, SEC.17. Amended by P.L.2-2005, SEC.81.*

**IC 31-34-1-12**

**Exception for mother's good faith use of legend drug according to prescription**

Sec. 12. A child is not a child in need of services under section 10 or 11 of this chapter if:

- (1) a drug detected in the body of the child under section 10(1) of this chapter or the condition described in section 11(1) of this chapter was caused by a legend drug; and
- (2) during pregnancy the child's mother:
  - (A) possessed a valid prescription for the legend drug;
  - (B) was not in violation of IC 16-42-19 (the Indiana legend drug act); and
  - (C) made a good faith attempt to use the legend drug according to the prescription instructions.

*As added by P.L.1-1997, SEC.17.*

**IC 31-34-1-13**

**Exception for mother's good faith use of controlled substance according to prescription**

Sec. 13. A child is not a child in need of services under section 10 or 11 of this chapter if:

- (1) a drug detected in the body of the child under section 10(1) of this chapter or the condition described in section 11(1) of this chapter was caused by a controlled substance; and
- (2) during pregnancy the child's mother:
  - (A) possessed a valid prescription for the controlled substance; and
  - (B) made a good faith attempt to use the controlled substance according to the prescription instructions.

*As added by P.L.1-1997, SEC.17.*

**IC 31-34-1-14**

**Exception for failure of parent, guardian, or custodian to provide**

**medical treatment because of religious beliefs; rebuttable presumption; effect of presumption**

Sec. 14. If a parent, guardian, or custodian fails to provide specific medical treatment for a child because of the legitimate and genuine practice of the religious beliefs of the parent, guardian, or custodian, a rebuttable presumption arises that the child is not a child in need of services because of the failure. However, this presumption does not do any of the following:

- (1) Prevent a juvenile court from ordering, when the health of a child requires, medical services from a physician licensed to practice medicine in Indiana.
- (2) Apply to situations in which the life or health of a child is in serious danger.

*As added by P.L.1-1997, SEC.17.*

**IC 31-34-1-15**

**Effect of chapter on use of corporal punishment or religious practices**

Sec. 15. This chapter does not do any of the following:

- (1) Limit the right of a parent, guardian, or custodian of a child to use reasonable corporal punishment when disciplining the child.
- (2) Limit the lawful practice or teaching of religious beliefs.

*As added by P.L.1-1997, SEC.17.*

**IC 31-34-1-16**

**Termination of parental rights or transfer of custody may not be required; voluntary placement agreements**

Sec. 16. (a) The department may not:

- (1) initiate a court proceeding to:
  - (A) terminate the parental rights concerning; or
  - (B) transfer legal custody of; or
- (2) require a parent, guardian, or custodian to consent to:
  - (A) the termination of parental rights; or
  - (B) transfer of legal custody of;

a child with an emotional, a behavioral, or a mental disorder or a developmental or physical disability who is voluntarily placed out of the home for the purpose of obtaining special treatment or care, solely because the parent, guardian, or custodian is unable to provide the treatment or care. Relinquishment of custody of a child described in this subsection may not be made a condition for receipt of services or care delivered or funded by the department or the county office of family and children.

(b) When a child described in subsection (a) is voluntarily placed out of the home to receive special treatment or care, the department and the parent, guardian, or custodian of the child may execute a voluntary placement agreement that includes the following:

- (1) A statement that, by entering into a voluntary placement agreement, the parent, guardian, or custodian of the child is not transferring legal custody of the child to the department.

(2) A statement specifying the legal status of the child.

(3) A statement specifying the rights and obligations of the parent, guardian, or custodian.

*As added by P.L.282-2001, SEC.3. Amended by P.L.145-2006, SEC.289.*

## **IC 31-34-2**

### **Chapter 2. Taking a Child in Need of Services Into Custody**

## **IC 31-34-2-1**

### **Court order to take child into custody**

Sec. 1. A child may be taken into custody by a law enforcement officer under an order of the court.

*As added by P.L.1-1997, SEC.17.*

## **IC 31-34-2-2**

### **Taking alleged perpetrator into custody; protective order**

Sec. 2. (a) A law enforcement officer may take a person into custody if the law enforcement officer has probable cause to believe that the person is the alleged perpetrator of an act against a child who the law enforcement officer believes to be a child in need of services as a result of the alleged perpetrator's act. The law enforcement officer may take the alleged perpetrator into custody under this section only for the purpose of removing the alleged perpetrator from the residence where the child believed to be in need of services resides.

(b) The law enforcement officer shall immediately contact the attorney for the county department or another authorized person for the purpose of initiating a protective order under IC 31-34-25 that will require the alleged perpetrator to refrain from having direct or indirect contact with the child.

*As added by P.L.1-1997, SEC.17. Amended by P.L.1-2003, SEC.77.*

## **IC 31-34-2-3**

### **Taking child into custody without court order; documentation**

Sec. 3. (a) If a law enforcement officer's action under section 2 of this chapter will not adequately protect the safety of the child, the child may be taken into custody by a law enforcement officer, probation officer, or caseworker acting with probable cause to believe the child is a child in need of services if:

- (1) it appears that the child's physical or mental condition will be seriously impaired or seriously endangered if the child is not immediately taken into custody;
- (2) there is not a reasonable opportunity to obtain an order of the court; and
- (3) consideration for the safety of the child precludes the immediate use of family services to prevent removal of the child.

(b) A probation officer or caseworker may take a child into custody only if the circumstances make it impracticable to obtain assistance from a law enforcement officer.

(c) If a person takes a child into custody under this section, the person shall make written documentation not more than twenty-four (24) hours after the child is taken into custody as provided in section 6 of this chapter.

*As added by P.L.1-1997, SEC.17.*



#### **IC 31-34-2-4**

##### **Missing child taken into custody without court order**

Sec. 4. A child may be taken into custody by:

- (1) a law enforcement officer;
- (2) a probation officer; or
- (3) a caseworker;

acting with probable cause to believe the child is a child in need of services because the child is a missing child (as defined in IC 10-13-5-4).

*As added by P.L.1-1997, SEC.17. Amended by P.L.2-2003, SEC.74.*

#### **IC 31-34-2-5**

##### **Missing child taken into custody under court order**

Sec. 5. If a child in need of services is a missing child and is taken into custody under a court order, the person taking the child into custody shall do the following:

- (1) Take the child to a place designated in the order.
- (2) Give notice to the following that the child has been taken into custody:
  - (A) The child's legal custodian.
  - (B) The clearinghouse for information on missing children and missing endangered adults established by IC 10-13-5.

*As added by P.L.1-1997, SEC.17. Amended by P.L.2-2003, SEC.75; P.L.43-2009, SEC.19.*

#### **IC 31-34-2-6**

##### **Documentation by person taking child into custody without court order; forms**

Sec. 6. (a) A person taking a child into custody under section 3 of this chapter shall make written documentation evidencing the following:

- (1) The facts establishing probable cause to believe that the child is a child in need of services.
- (2) Why the child's physical or mental condition will be seriously impaired or seriously endangered if the child is not immediately taken into custody.
- (3) Why the person is unable to obtain a court order and what steps have been taken to obtain a court order.
- (4) Why the department of child services is unable to protect the safety of the child without taking the child into custody.
- (5) Why the person is unable to obtain the assistance of a law enforcement officer if the child is taken into custody by a probation officer or caseworker without the assistance of a law enforcement officer.

(b) The department of child services shall create forms to be used for documentation under this section.

(c) The person taking the child into custody shall immediately forward a copy of the documentation to the department of child services to be included in the report required by IC 31-33-7-4.

*As added by P.L.1-1997, SEC.17. Amended by P.L.234-2005,*

*SEC.168.*

### **IC 31-34-2.3**

#### **Chapter 2.3. Child Protective Orders for Removal of Alleged Perpetrators**

### **IC 31-34-2.3-0.1**

#### **Application of certain amendments to chapter**

Sec. 0.1. The addition of sections 6 and 7 of this chapter by P.L.52-2007 applies only to offenses committed after June 30, 2007.  
*As added by P.L.220-2011, SEC.513.*

### **IC 31-34-2.3-1**

#### **Petition to remove alleged perpetrator of child abuse or neglect from child's residence**

Sec. 1. If, after an investigation, the department determines that:

- (1) there is probable cause to believe that a child is a child in need of services; and
- (2) the child would be protected in the child's residence by the removal of the alleged perpetrator of child abuse or neglect;

the department may file a petition to remove the alleged perpetrator from the child's residence instead of attempting to remove the child from the child's residence.  
*As added by P.L.52-2007, SEC.8.*

### **IC 31-34-2.3-2**

#### **Temporary child protective order; petition**

Sec. 2. A court may issue a temporary child protective order in an action by the department for the removal of an alleged perpetrator of child abuse or neglect under section 1 of this chapter without a hearing if the department's petition to remove the alleged perpetrator states facts sufficient to satisfy the court of all of the following:

- (1) There is an immediate danger to the physical health or safety of the child or the child has been a victim of sexual abuse.
- (2) There is not time for an adversary hearing given the immediate danger to the physical health or safety of the child.
- (3) The child is not in danger of child abuse or neglect from a parent or other adult with whom the child will continue to reside in the child's residence.
- (4) The issuance of a temporary child protective order is in the best interest of the child.

*As added by P.L.52-2007, SEC.8.*

### **IC 31-34-2.3-3**

#### **Serving temporary child protective order**

Sec. 3. The department shall serve a temporary child protective order issued under section 2 of this chapter on:

- (1) the alleged perpetrator of child abuse or neglect; and
- (2) the parent or other adult with whom the child will continue to reside.

*As added by P.L.52-2007, SEC.8.*

#### **IC 31-34-2.3-4**

##### **Hearing; notice**

Sec. 4. (a) A juvenile court shall hold a hearing on the temporary child protective order issued under this chapter not more than forty-eight (48) hours (excluding Saturdays, Sundays, and any day on which a legal holiday is observed for state employees as provided in IC 1-1-9) after the temporary child protective order is issued.

(b) The department shall provide notice of the time, place, and purpose of the hearing to the following:

- (1) The child.
- (2) The child's parent, guardian, or custodian if the person can be located.
- (3) Any adult with whom the child is residing.
- (4) The alleged perpetrator of child abuse or neglect.

*As added by P.L.52-2007, SEC.8.*

#### **IC 31-34-2.3-5**

##### **Issuing child protective order; other relief; valid**

Sec. 5. (a) After notice and a hearing, the court may issue a child protective order if the department's petition to remove the alleged perpetrator states facts sufficient to satisfy the court that:

- (1) the child is not in danger of child abuse or neglect from a parent or other adult with whom the child will continue to reside in the child's residence; and
- (2) one (1) or more of the following exist:
  - (A) The presence of the alleged perpetrator of child abuse or neglect in the child's residence constitutes a continuing danger to the physical health or safety of the child.
  - (B) The child has been the victim of sexual abuse, and there is a substantial risk that the child will be the victim of sexual abuse in the future if the alleged perpetrator of child abuse or neglect remains in the child's residence.

(b) If the court issues a child protective order under this section, the court may grant other relief as provided under IC 34-26-5-9.

(c) A child protective order issued under this section is valid until one (1) of the following occurs:

- (1) The court determines the child is not a child in need of services.
- (2) The child is adjudicated a child in need of services and the court enters a dispositional decree.

*As added by P.L.52-2007, SEC.8.*

#### **IC 31-34-2.3-6**

##### **Duties for parent or other custodian of child; order**

Sec. 6. A temporary child protective order issued under this chapter or any other order that requires the removal of an alleged perpetrator of child abuse or neglect from the residence of a child must require that the parent or other adult with whom the child will continue to reside in the child's residence makes reasonable efforts:

- (1) to monitor the residence; and

(2) to report to the department and the appropriate law enforcement agency any attempt by the alleged perpetrator of child abuse or neglect to return to the child's residence.

*As added by P.L.52-2007, SEC.8.*

#### **IC 31-34-2.3-7**

##### **Violation of order by parent or other custodian of child**

Sec. 7. A parent or other adult with whom a child continues to reside after the issuance of a child protective order issued under section 2 or 5 of this chapter for removal of an alleged perpetrator of child abuse or neglect who knowingly or intentionally fails to comply with the requirements under section 6 of this chapter commits a Class A misdemeanor.

*As added by P.L.52-2007, SEC.8.*

#### **IC 31-34-2.3-8**

##### **Violation of order by alleged perpetrator of child abuse or neglect**

Sec. 8. An alleged perpetrator of child abuse who knowingly or intentionally returns to a child's residence in violation of a child protective order issued under section 2 or 5 of this chapter commits a Class A misdemeanor. However, the offense is a Class D felony if the alleged perpetrator has a prior unrelated conviction under this section.

*As added by P.L.52-2007, SEC.8.*

### **IC 31-34-2.5**

#### **Chapter 2.5. Emergency Custody of Certain Abandoned Children**

### **IC 31-34-2.5-1**

#### **Emergency medical services provider taking custody of child**

Sec. 1. (a) An emergency medical services provider shall, without a court order, take custody of a child who is, or who appears to be, not more than forty-five (45) days of age if:

(1) the child is voluntarily left with the provider by the child's parent; and

(2) the parent does not express an intent to return for the child.

(b) An emergency medical services provider who takes custody of a child under this section shall perform any act necessary to protect the child's physical health or safety.

(c) Any person who in good faith voluntarily leaves a child with an emergency medical services provider is not obligated to disclose the parent's name or their name.

*As added by P.L.133-2000, SEC.3. Amended by P.L.217-2001, SEC.5.*

### **IC 31-34-2.5-2**

#### **Notice to department of child services; department of child services' duties; notice to clearinghouse**

Sec. 2. (a) Immediately after an emergency medical services provider takes custody of a child under section 1 of this chapter, the provider shall notify the department of child services that the provider has taken custody of the child.

(b) The department of child services shall:

(1) assume the care, control, and custody of the child immediately after receiving notice under subsection (a); and

(2) not later than forty-eight (48) hours after the department of child services has taken custody of the child, contact the Indiana clearinghouse for information on missing children and missing endangered adults established by IC 10-13-5-5 to determine if the child has been reported missing.

*As added by P.L.133-2000, SEC.3. Amended by P.L.217-2001, SEC.6; P.L.2-2003, SEC.76; P.L.234-2005, SEC.169; P.L.43-2009, SEC.20.*

### **IC 31-34-2.5-3**

#### **Treatment as child taken into custody without court order**

Sec. 3. A child for whom the department of child services assumes care, control, and custody under section 2 of this chapter shall be treated as a child taken into custody without a court order, except that efforts to locate the child's parents or reunify the child's family are not necessary, if the court makes a finding to that effect under IC 31-34-21-5.6(b)(5).

*As added by P.L.133-2000, SEC.3. Amended by P.L.234-2005, SEC.170.*

**IC 31-34-2.5-4****Duties of attorney for department of child services**

Sec. 4. Whenever a child is taken into custody without a court order under this chapter, the attorney for the department of child services shall, without unnecessary delay, request the juvenile court to:

- (1) authorize the filing of a petition alleging that the child is a child in need of services;
- (2) hold an initial hearing under IC 31-34-10 not later than the next business day after the child is taken into custody; and
- (3) appoint a guardian ad litem or a court appointed special advocate for the child.

*As added by P.L.133-2000, SEC.3. Amended by P.L.129-2005, SEC.5; P.L.234-2005, SEC.171.*

### **IC 31-34-3**

#### **Chapter 3. Child Taken Into Custody**

### **IC 31-34-3-1**

#### **Procedures for notice to custodial parent, guardian, or custodian**

Sec. 1. If a child is taken into custody under IC 31-34-2, the department of child services shall notify the child's custodial parent, guardian, or custodian not more than two (2) hours after the child has been taken into custody that the child has been taken into custody as the result of alleged child abuse or neglect.

*As added by P.L.1-1997, SEC.17. Amended by P.L.234-2005, SEC.172.*

### **IC 31-34-3-2**

#### **Procedures for notice; custodial parent, guardian, or custodian who cannot be located**

Sec. 2. Subject to section 3 of this chapter, if after making a reasonable effort the child's custodial parent, guardian, or custodian cannot be located, the department of child services shall make a good faith effort, not more than six (6) hours after the child has been taken into custody, to leave written notice at the last known address of the child's custodial parent, guardian, or custodian that the child has been taken into custody.

*As added by P.L.1-1997, SEC.17. Amended by P.L.234-2005, SEC.173.*

### **IC 31-34-3-3**

#### **Procedures for notice; custodial parent, guardian, or custodian believed to reside outside Indiana**

Sec. 3. If the custodial parent, guardian, or custodian is believed to reside outside Indiana, the department of child services shall send written notice by certified mail to the last known address of the noncustodial parent, guardian, or custodian on the same date that the child is taken into custody. However, if the child is not taken into custody on a business day, the department of child services shall send notice by certified mail on the next business day after the child is taken into custody.

*As added by P.L.1-1997, SEC.17. Amended by P.L.234-2005, SEC.174.*

### **IC 31-34-3-4**

#### **Notice of contact person for more information; notice to each parent**

Sec. 4. The notice required by this chapter must:

- (1) identify a person or an entity that the parent, guardian, or custodian may contact to obtain more information regarding the child's removal from the child's residence; and
- (2) be given to each of the child's parents as described in sections 1 through 3 of this chapter.

*As added by P.L.1-1997, SEC.17.*



### **IC 31-34-3-4.5**

#### **Procedures for notices to adult relatives and siblings**

Sec. 4.5. (a) If a child is removed from the child's parents under this chapter, within thirty (30) days after the removal of the child from the parents the department shall exercise due diligence to identify and provide notice of the removal to:

- (1) all adult relatives (as defined in IC 31-9-2-107) of the child, including relatives suggested by either parent as required under 42 U.S.C. 671(a)(29); and
- (2) all the child's siblings who are at least eighteen (18) years of age.

(b) The department may not provide notice to a person under subsection (a) if the department knows or suspects that the person has caused family or domestic violence.

(c) A notice under subsection (a) must:

- (1) state that the child has been removed from the parents by the department;
- (2) set forth the options the relative may have under federal, state, or local laws, including the care and placement of the child and other options that may be lost if the relative fails to respond to the notice;
- (3) describe the requirements for the relative to become a foster parent; and
- (4) describe additional services available to the child placed in foster care.

*As added by P.L.131-2009, SEC.59.*

### **IC 31-34-3-5**

#### **Immediate needs of child as first priority of department of child services**

Sec. 5. The department of child services must have as the department's first priority the immediate needs of the child for medical care, shelter, food, or other crisis services.

*As added by P.L.1-1997, SEC.17. Amended by P.L.234-2005, SEC.175.*

## **IC 31-34-4**

### **Chapter 4. Temporary Placement of Child Taken Into Custody**

#### **IC 31-34-4-0.2**

##### **Application of certain amendments to prior law**

Sec. 0.2. The addition of IC 31-6-4-6.1 (before its repeal, now codified at section 6 of this chapter) by P.L.140-1994 applies to crimes committed after June 30, 1994.

*As added by P.L.220-2011, SEC.514.*

#### **IC 31-34-4-1**

##### **Application of chapter**

Sec. 1. This chapter applies only to a child alleged to be a child in need of services.

*As added by P.L.1-1997, SEC.17.*

#### **IC 31-34-4-2**

##### **Placement of child with relative caretaker, de facto custodian, or stepparent; evaluation; criminal history check required; exceptions; out-of-home placement; considerations**

Sec. 2. (a) If a child alleged to be a child in need of services is taken into custody under an order of the court under this chapter and the court orders out-of-home placement, the department is responsible for that placement and care and must consider placing the child with a:

- (1) suitable and willing blood or an adoptive relative caretaker, including a grandparent, an aunt, an uncle, or an adult sibling;
- (2) de facto custodian; or
- (3) stepparent;

before considering any other out-of-home placement.

(b) Before the department places a child in need of services with a blood relative or an adoptive relative caretaker, a de facto custodian, or a stepparent, the department shall complete an evaluation based on a home visit of the relative's home.

(c) Except as provided in subsection (e), before placing a child in need of services in an out-of-home placement, including placement with a blood or an adoptive relative caretaker, a de facto custodian, or a stepparent, the department shall conduct a criminal history check of each person who is currently residing in the location designated as the out-of-home placement.

(d) Except as provided in subsection (f), the department may not make an out-of-home placement if a person described in subsection (c) has:

- (1) committed an act resulting in a substantiated report of child abuse or neglect; or
- (2) been convicted of a felony listed in IC 31-27-4-13 or had a juvenile adjudication for an act that would be a felony listed in IC 31-27-4-13 if committed by an adult.

(e) The department is not required to conduct a criminal history check under subsection (c) if the department makes an out-of-home

placement to an entity or a facility that is not a residence (as defined in IC 3-5-2-42.5) or that is licensed by the state.

(f) A court may order or the department may approve an out-of-home placement if:

- (1) a person described in subsection (c) has:
    - (A) committed an act resulting in a substantiated report of child abuse or neglect;
    - (B) been convicted of:
      - (i) battery (IC 35-42-2-1) as a felony;
      - (ii) criminal confinement (IC 35-42-3-3) as a felony;
      - (iii) carjacking (IC 35-42-5-2) as a felony;
      - (iv) arson (IC 35-43-1-1) as a felony;
      - (v) a felony involving a weapon under IC 35-47 or IC 35-47.5;
      - (vi) a felony relating to controlled substances under IC 35-48-4; or
      - (vii) a felony that is substantially equivalent to a felony listed in items (i) through (vi) for which the conviction was entered in another state;
  - if the conviction did not occur within the past five (5) years;
  - or
  - (C) had a juvenile adjudication for an act listed in IC 31-27-4-13(a) that, if committed by an adult, would be a felony; and
- (2) the person's commission of the offense, delinquent act, or act of abuse or neglect described in subdivision (1) is not relevant to the person's present ability to care for a child, and the placement is in the best interest of the child.

However, a court or the department may not make an out-of-home placement if the person has been convicted of a felony listed in IC 31-27-4-13 that is not specifically excluded under subdivision (1)(B).

(g) In considering the placement under subsection (f), the court or the department shall consider the following:

- (1) The length of time since the person committed the offense, delinquent act, or abuse or neglect.
- (2) The severity of the offense, delinquent act, or abuse or neglect.
- (3) Evidence of the person's rehabilitation, including the person's cooperation with a treatment plan, if applicable.

*As added by P.L.1-1997, SEC.17. Amended by P.L.70-2004, SEC.18; P.L.234-2005, SEC.176; P.L.145-2006, SEC.290; P.L.1-2007, SEC.206; P.L.52-2007, SEC.9; P.L.146-2008, SEC.578; P.L.162-2011, SEC.49.*

### **IC 31-34-4-3**

#### **Order to take child to designated place pending detention hearing**

Sec. 3. If a child is taken into custody under an order of the court, the law enforcement officer shall take the child to a place designated in the order to await a detention hearing.

*As added by P.L.1-1997, SEC.17.*

#### **IC 31-34-4-4**

##### **Release, delivery, or detention of child taken into custody without court order**

Sec. 4. If a child is taken into custody without an order of the court, the person taking the child into custody:

- (1) may:
  - (A) release the child; or
  - (B) deliver the child to a place designated by the juvenile court; and
- (2) if the child is detained, shall promptly notify the child's parent, guardian, or custodian and an intake officer:
  - (A) that the child is being held; and
  - (B) of the reasons for the child's detention.

*As added by P.L.1-1997, SEC.17.*

#### **IC 31-34-4-5**

##### **Investigation, release, or detention by intake officer of child taken into custody without court order**

Sec. 5. If the child was not taken into custody under an order of the court, the intake officer shall investigate the reasons for the child's detention. The intake officer shall release the child to the child's parent, guardian, or custodian upon the person's written promise to bring the child before the juvenile court at a time specified. However, the intake officer may place the child in detention if the intake officer reasonably believes that the child is a child in need of services and that:

- (1) detention is necessary to protect the child;
- (2) the child is unlikely to appear before the juvenile court for subsequent proceedings;
- (3) the child has a reasonable basis for requesting that the child not be released; or
- (4) the parent, guardian, or custodian:
  - (A) cannot be located; or
  - (B) is unable or unwilling to take custody of the child.

*As added by P.L.1-1997, SEC.17.*

#### **IC 31-34-4-6**

##### **Duty to inform parent, custodian, or guardian of legal rights**

Sec. 6. (a) The department shall submit written information to a parent, custodian, or guardian of a child who is alleged to be abused or neglected regarding the following legal rights of the parent, custodian, or guardian:

- (1) The right to have a detention hearing held by a court within forty-eight (48) hours after the child's removal from the home and to request return of the child at the hearing.
- (2) The right to:
  - (A) be represented by an attorney;
  - (B) cross examine witnesses; and

- (C) present evidence on the parent's, custodian's, or guardian's own behalf;
- at each court proceeding on a petition alleging that the child is a child in need of services. The parent, guardian, or custodian has the right to be represented by a court appointed attorney under clause (A) upon the request of the parent, guardian, or custodian if the court finds that the parent, guardian, or custodian does not have sufficient financial means for obtaining representation as described in IC 34-10-1.
- (3) The right not to make statements that incriminate the parent, custodian, or guardian and that an incriminating statement may be used during a court proceeding on a petition alleging that the child is a child in need of services.
- (4) The right to request to have the case reviewed by the child protection team under IC 31-33-3-6.
- (5) The right to be advised that after July 1, 1999, a petition to terminate the parent-child relationship must be filed whenever a child has been removed from the child's parent and has been under the supervision of the department for at least fifteen (15) months of the most recent twenty-two (22) months.
- (b) The department shall submit the written information under subsection (a) to the child's parent, guardian, or custodian at the time:
- (1) the child is taken into custody; or
  - (2) the department files a petition alleging that the child is a child in need of services;
- whichever occurs earlier.
- As added by P.L.1-1997, SEC.17. Amended by P.L.35-1998, SEC.5; P.L.145-2006, SEC.291.*

#### **IC 31-34-4-7**

##### **Court submission of certain proposed services, programs, and out-of-home placement to department; approval or disapproval by department; court orders; appeal by department; payment of costs**

Sec. 7. (a) This section applies to services and programs provided to or on behalf of a child alleged to be a child in need of services at any time before:

- (1) entry of a dispositional decree under IC 31-34-20; or
  - (2) approval of a program of informal adjustment under IC 31-34-8.
- (b) Before a juvenile court orders or approves a service, a program, or an out-of-home placement for a child that has not been recommended by the department, the court shall submit the proposed service, program, or placement to the department for consideration. The department shall, within three (3) business days after receipt of the court's proposal, submit to the court a report stating whether the department approves or disapproves the proposed service, program, or placement.
- (c) If the department approves the service, program, or placement recommended by the juvenile court, the court may enter an appropriate order to implement the approved proposal. If the

department does not approve a service, program, or placement proposed by the juvenile court, the department may recommend an alternative service, program, or placement for the child.

(d) The juvenile court shall accept the recommendations of the department regarding any predispositional services, programs, or placement for the child, unless the juvenile court finds a recommendation is:

- (1) unreasonable, based on the facts and circumstances of the case; or
- (2) contrary to the welfare and best interests of the child.

(e) If the juvenile court does not accept the recommendations of the department in the report submitted under subsection (b), the court may enter an order that:

- (1) requires the department to provide a specified service, program, or placement until entry of a dispositional decree or until the order is otherwise modified or terminated; and
- (2) specifically states the reasons why the juvenile court is not accepting the recommendations of the department, including the court's findings under subsection (d).

(f) If the juvenile court enters its findings and order under subsection (e), the department may appeal the juvenile court's order under any available procedure provided by the Indiana Rules of Trial Procedure or the Indiana Rules of Appellate Procedure to allow any disputes arising under this section to be decided in an expeditious manner.

(g) If the department prevails on appeal, the department shall pay the following costs and expenses incurred by or on behalf of the child before the date of the final decision:

- (1) Any programs or services implemented during the appeal initiated under subsection (f), other than the cost of an out-of-home placement ordered by the juvenile court.
- (2) Any out-of-home placement ordered by the juvenile court and implemented after entry of the court order of placement, if the juvenile court order includes written findings that the placement is an emergency required to protect the health and welfare of the child.

If the court has not made written findings that the placement is an emergency, the county in which the juvenile court is located is responsible for payment of all costs of the placement, including the cost of services and programs provided by the home or facility where the child was placed.

*As added by P.L.146-2008, SEC.579.*

## **IC 31-34-5**

### **Chapter 5. Detention Hearing**

#### **IC 31-34-5-1**

##### **Time for hearing; notice; petition alleging a child is a child in need of services**

Sec. 1. (a) If a child taken into custody under IC 31-34-2 is not released, a detention hearing shall be held not later than forty-eight (48) hours, excluding Saturdays, Sundays, and any day on which a legal holiday is observed for state employees as provided under IC 1-1-9, after the child is taken into custody. If the detention hearing is not held, the child shall be released. Notice of the time, place, and purpose of the detention hearing shall be given to the following:

(1) The child.

(2) The child's parent, guardian, or custodian if the person can be located.

(3) Each foster parent or other caretaker with whom the child has been placed for temporary care under IC 31-34-4.

(b) The court shall:

(1) provide a person who is required to be notified under subsection (a)(2) or (a)(3) an opportunity to be heard; and

(2) allow a person described in subdivision (1) to make recommendations to the court;

at the detention hearing.

(c) A petition alleging that a child described in subsection (a) is a child in need of services shall be filed before a detention hearing is held for the child.

*As added by P.L.1-1997, SEC.17. Amended by P.L.35-1998, SEC.6; P.L.138-2007, SEC.68; P.L.131-2009, SEC.60.*

#### **IC 31-34-5-1.5**

##### **Hearing after emergency medical services provider takes custody of a child; notification; petition alleging a child is a child in need of services**

Sec. 1.5. (a) This section applies to a child taken into custody under IC 31-34-2.5.

(b) The juvenile court shall hold a detention hearing after an emergency medical services provider takes custody of a child under IC 31-34-2.5. The court shall hold the detention hearing not later than forty-eight (48) hours after the emergency medical services provider takes the child into custody, excluding Saturdays, Sundays, and any day on which a legal holiday is observed for state employees as provided under IC 1-1-9. A petition alleging that a child described in subsection (a) is a child in need of services shall be filed before the detention hearing is held for the child.

(c) The department may notify the emergency medical services provider that has taken emergency custody of a child under IC 31-34-2.5 of the detention hearing. The emergency medical services provider may be heard at the detention hearing.

(d) The department shall notify each foster parent or other

caretaker with whom the child has been temporarily placed under IC 31-34-2.5 of the detention hearing. The court shall:

- (1) provide a person who is required to be notified under this subsection an opportunity to be heard; and
- (2) allow a person described in subdivision (1) to make recommendations to the court;

at the detention hearing.

*As added by P.L.217-2001, SEC.7. Amended by P.L.145-2006, SEC.292; P.L.138-2007, SEC.69; P.L.131-2009, SEC.61.*

### **IC 31-34-5-2**

#### **Findings**

Sec. 2. If a child has been removed from the child's parent, guardian, or custodian under IC 31-34-2-3 or IC 31-34-2-4, then, in accordance with federal law, at the detention hearing the court shall make written findings and conclusions that state the following:

- (1) Whether removal of the child authorized by IC 31-34-2-3 or IC 31-34-2-4 was necessary to protect the child.
- (2) A description of the family services available before removal of the child.
- (3) Efforts made to provide family services before removal of the child.
- (4) Why the efforts made to provide family services did not prevent removal of the child.
- (5) Whether the efforts made to prevent removal of the child were reasonable.

*As added by P.L.1-1997, SEC.17.*

### **IC 31-34-5-3**

#### **Release; findings required for detention order; approval of services, programs, and placement; court order; appeal; payment of costs**

Sec. 3. (a) The juvenile court shall release the child to the child's parent, guardian, or custodian. However, the court may order the child detained if the court makes written findings of fact upon the record of probable cause to believe that the child is a child in need of services and that:

- (1) detention is necessary to protect the child;
- (2) the child is unlikely to appear before the juvenile court for subsequent proceedings;
- (3) the child has a reasonable basis for requesting that the child not be released;
- (4) the parent, guardian, or custodian:
  - (A) cannot be located; or
  - (B) is unable or unwilling to take custody of the child; or
- (5) consideration for the safety of the child precludes the use of family services to prevent removal of the child.

(b) The juvenile court shall include in any order approving or requiring detention of a child all findings and conclusions required under:



- (1) applicable provisions of Title IV-E of the federal Social Security Act (42 U.S.C. 670 et seq.); or
- (2) any applicable federal regulation, including 45 CFR 1356.21;

as a condition of eligibility of a child in need of services for assistance under Title IV-E or any other federal law.

(c) Inclusion in a juvenile court order of language approved and recommended by the judicial conference of Indiana, in relation to:

- (1) removal from the child's home; or
- (2) detention;

of a child who is alleged to be, or adjudicated as, a child in need of services constitutes compliance with subsection (b).

*As added by P.L.1-1997, SEC.17. Amended by P.L.146-2008, SEC.580.*

### **IC 31-34-5-3.5**

#### **Release of a child; conditions**

Sec. 3.5. If the juvenile court releases a child to the child's parent, guardian, or custodian under section 3 of this chapter, the court may impose conditions on the child or the child's parent, guardian, or custodian to ensure the safety of the child's physical or mental health.

*As added by P.L.146-2006, SEC.45.*

### **IC 31-34-5-4**

#### **Order to appear for additional detention hearing**

Sec. 4. Upon the juvenile court's own motion or upon the motion of the person representing the interests of the state, the parent, guardian, or custodian of a child who has been released may be ordered to appear with the child for an additional detention hearing.

*As added by P.L.1-1997, SEC.17.*

### **IC 31-34-5-5**

#### **Petition for additional detention hearings**

Sec. 5. A child detained under section 3 or 4 of this chapter or the child's parent, guardian, or custodian may petition the juvenile court for additional detention hearings.

*As added by P.L.1-1997, SEC.17.*

**IC 31-34-6****Chapter 6. Detention of Alleged Child in Need of Services****IC 31-34-6-1****Detention in certain facilities prohibited**

Sec. 1. A child alleged to be a child in need of services may not be held in:

- (1) a secure facility; or
- (2) a shelter care facility that houses persons charged with, imprisoned for, or incarcerated for crimes.

*As added by P.L.1-1997, SEC.17.*

**IC 31-34-6-2****Placement with family member**

Sec. 2. A juvenile court or the department shall consider placing a child alleged to be a child in need of services with an appropriate family member of the child before considering any other placement for the child.

*As added by P.L.1-1997, SEC.17. Amended by P.L.146-2008, SEC.581.*

**IC 31-34-6-3****Placement in facility located outside child's county of residence**

Sec. 3. A juvenile court or the department may not place a child in:

- (1) a community based correctional facility for children;
- (2) a juvenile detention facility;
- (3) a secure facility;
- (4) a secure private facility; or
- (5) a shelter care facility;

that is located outside the child's county of residence unless placement of the child in a comparable facility with adequate services located in the child's county of residence is unavailable or the child's county of residence does not have an appropriate comparable facility with adequate services.

*As added by P.L.1-1997, SEC.17. Amended by P.L.146-2008, SEC.582.*

## **IC 31-34-7**

### **Chapter 7. Information About Children in Need of Services, Investigation, and Preliminary Inquiry**

## **IC 31-34-7-1**

### **Preliminary inquiry**

Sec. 1. A person may give an intake officer written information indicating that a child is a child in need of services. If the intake officer has reason to believe that the child is a child in need of services, the intake officer shall make a preliminary inquiry to determine whether the interests of the child require further action. Whenever practicable, the preliminary inquiry should include information on the child's background, current status, and school performance.

*As added by P.L.1-1997, SEC.17.*

## **IC 31-34-7-2**

### **Provision of preliminary inquiry and recommendation to attorney for department**

Sec. 2. The intake officer shall send to the attorney for the department a copy of the preliminary inquiry. The intake officer shall recommend whether to:

- (1) file a petition;
- (2) informally adjust the case;
- (3) refer the child to another agency; or
- (4) dismiss the case.

*As added by P.L.1-1997, SEC.17. Amended by P.L.145-2006, SEC.293; P.L.146-2008, SEC.583.*

## **IC 31-34-7-3**

### **Decision whether to request authorization to file petition**

Sec. 3. The person representing the interests of the state and receiving the preliminary inquiry and recommendations shall decide whether to request authorization to file a petition. This decision is final only as to the office of the person making the decision.

*As added by P.L.1-1997, SEC.17.*

## **IC 31-34-7-4**

### **Access by accused to report**

Sec. 4. A person who is accused of committing child abuse or neglect is entitled under IC 31-33-18-2(14) to access to a report relevant to an alleged accusation.

*As added by P.L.1-1997, SEC.17.*

## **IC 31-34-8**

### **Chapter 8. Program of Informal Adjustment**

#### **IC 31-34-8-1**

##### **Implementation of program; statement by court of reasons for denial; program considered approved in certain circumstances**

Sec. 1. (a) After the preliminary inquiry and upon approval by the juvenile court, the intake officer may implement a program of informal adjustment if the officer has probable cause to believe that the child is a child in need of services.

(b) If the juvenile court denies a program of informal adjustment, the court shall state its reasons for the denial. The reasons may include that:

- (1) the juvenile court finds no probable cause to believe that the child is a child in need of services; or
- (2) the juvenile court finds that the coercive intervention of the juvenile court is required.

(c) If the juvenile court does not act to either:

- (1) approve or deny a program of informal adjustment; or
- (2) set a hearing date;

within ten (10) days of its submission to the juvenile court, the program of informal adjustment is considered approved.

(d) If:

- (1) the juvenile court sets a hearing under subsection (c); and
- (2) the hearing is not concluded and action taken to approve or deny the program of informal adjustment within thirty (30) days of the submission of the program to the juvenile court;

the program of informal adjustment is considered approved.

*As added by P.L.1-1997, SEC.17. Amended by P.L.146-2008, SEC.584.*

#### **IC 31-34-8-2**

##### **Consent**

Sec. 2. The child and the child's parent, guardian, custodian, or attorney must consent to a program of informal adjustment.

*As added by P.L.1-1997, SEC.17.*

#### **IC 31-34-8-3**

##### **Petition for compliance; notice; hearing; order; contempt**

Sec. 3. (a) Upon the filing of a petition for compliance and after notice and a hearing on the petition for compliance, the juvenile court may order the parent, guardian, or custodian of a child to participate in a program of informal adjustment implemented under section 1 of this chapter.

(b) A parent, guardian, or custodian who fails to participate in a program of informal adjustment after being ordered under subsection (a) to participate may be found in contempt of court.

*As added by P.L.1-1997, SEC.17. Amended by P.L.146-2008, SEC.585.*

**IC 31-34-8-4****Repealed**

*(Repealed by P.L.138-2007, SEC.93.)*

**IC 31-34-8-5****Repealed**

*(Repealed by P.L.146-2008, SEC.804.)*

**IC 31-34-8-6****Duration of program; extension**

Sec. 6. A program of informal adjustment may not exceed six (6) months, except by approval of the juvenile court. The juvenile court may extend a program of informal adjustment an additional three (3) months.

*As added by P.L.1-1997, SEC.17. Amended by P.L.146-2008, SEC.586.*

**IC 31-34-8-7****Report on extent of compliance**

Sec. 7. (a) Not later than five (5) months after the department implements a program of informal adjustment under this chapter, the department shall file with the court a report indicating the extent of compliance with the program.

(b) If the court approves an extension of the period of the informal adjustment under section 6 of this chapter, the department shall file a supplemental report not later than eight (8) months after the department implements the program of informal adjustment updating the court on the status of a person's compliance with the program.

*As added by P.L.1-1997, SEC.17. Amended by P.L.234-2005, SEC.179; P.L.146-2008, SEC.587.*

**IC 31-34-8-8****Repealed**

*(Repealed by P.L.146-2008, SEC.805.)*

**IC 31-34-8-9****Repealed**

*(Repealed by P.L.146-2008, SEC.805.)*

## **IC 31-34-9**

### **Chapter 9. Filing of Petition Alleging That Child Is Child in Need of Services**

#### **IC 31-34-9-1**

##### **Request for authorization to file petition; representation of interests of state**

Sec. 1. The attorney for the department:

- (1) may request the juvenile court to authorize the filing of a petition alleging that a child is a child in need of services; and
- (2) shall represent the interests of the state at this proceeding and at all subsequent proceedings on the petition.

*As added by P.L.1-1997, SEC.17. Amended by P.L.145-2006, SEC.294; P.L.146-2008, SEC.588.*

#### **IC 31-34-9-2**

##### **Authorization to file petition; evidence; finding**

Sec. 2. The juvenile court shall do the following:

- (1) Consider the preliminary inquiry and the evidence of probable cause that is contained in the report of the preliminary inquiry or an affidavit of probable cause.
- (2) Authorize the filing of a petition if the court finds probable cause to believe that the child is a child in need of services.

*As added by P.L.1-1997, SEC.17.*

#### **IC 31-34-9-3**

##### **Petition; verification and contents**

Sec. 3. A petition must:

- (1) be verified;
- (2) be entitled "In the Matter of \_\_\_\_\_, a Child Alleged to be a Child in Need of Services";
- (3) be signed and filed by the person representing the interests of the state; and
- (4) contain the following information:
  - (A) A citation to the provision of the juvenile law that gives the juvenile court jurisdiction in the proceeding.
  - (B) A citation to the provision of the juvenile law that defines a child in need of services.
  - (C) A concise statement of the facts upon which the allegations are based, including the date and location at which the alleged facts occurred.
  - (D) The child's:
    - (i) name;
    - (ii) birth date; and
    - (iii) residence address;if known.
  - (E) The name and residence address of the child's parent, guardian, or custodian if known.
  - (F) The name and title of the person signing the petition.
  - (G) A statement indicating whether the child has been

removed from the child's parent, guardian, or custodian, and, if so, a description of the following:

- (i) Efforts made to provide the child or the child's parent, guardian, or custodian with family services before the removal.
- (ii) Reasons why family services were not provided before the removal of the child if family services were not provided.

*As added by P.L.1-1997, SEC.17.*

#### **IC 31-34-9-4**

##### **Error in or omission of citation; effect**

Sec. 4. Error in a citation or the omission of a citation is ground for:

- (1) dismissal of the petition; or
- (2) reversal of the adjudication;

only if the error or omission misleads the child or the child's parent, guardian, or custodian to the child's, parent's, guardian's, or custodian's prejudice.

*As added by P.L.1-1997, SEC.17.*

#### **IC 31-34-9-5**

##### **Written request that child be taken into custody; evidence; finding**

Sec. 5. (a) If a petition is authorized, the person filing may request in writing that the child be taken into custody.

(b) The person must support this request with sworn testimony or affidavit. The court may grant the request if the court makes written findings of fact upon the record that a ground for detention exists under IC 31-34-5-3.

*As added by P.L.1-1997, SEC.17.*

#### **IC 31-34-9-6**

##### **Detention hearing**

Sec. 6. If the juvenile court grants the request to have the child taken into custody, the court shall proceed under IC 31-34-5-1 and IC 31-34-5-2.

*As added by P.L.1-1997, SEC.17.*

#### **IC 31-34-9-7**

##### **Parties**

Sec. 7. The:

- (1) child;
- (2) child's parents, guardian, or custodian;
- (3) department; and
- (4) guardian ad litem or court appointed special advocate;

are parties to the proceedings described in the juvenile law and have all rights of parties under the Indiana Rules of Trial Procedure.

*As added by P.L.1-1997, SEC.17. Amended by P.L.145-2006, SEC.295.*

**IC 31-34-9-8****Dismissal on motion of person representing interests of state**

Sec. 8. (a) A person representing the interests of the state may file a motion to dismiss any petition that the person has filed under this chapter.

(b) If a person files a motion to dismiss under subsection (a), the person must provide to the court a statement that sets forth the reasons the person is requesting that the petition be dismissed.

(c) Not later than ten (10) days after the motion to dismiss is filed under subsection (a), the court shall:

- (1) summarily grant the motion to dismiss; or
- (2) set a date for a hearing on the motion to dismiss.

(d) If the court sets a hearing on the motion to dismiss under subsection (c)(2), the court may appoint:

- (1) a guardian ad litem;
- (2) a court appointed special advocate; or
- (3) both a guardian ad litem and a court appointed special advocate;

to represent and protect the best interests of the child.

*As added by P.L. 1-1997, SEC.17. Amended by P.L. 129-2005, SEC.6.*



## **IC 31-34-10**

### **Chapter 10. Initial Hearing on Child in Need of Services Petition and Issuance of Summons**

#### **IC 31-34-10-1**

##### **Application of chapter**

Sec. 1. This chapter applies only to a child alleged to be a child in need of services.

*As added by P.L.1-1997, SEC.17.*

#### **IC 31-34-10-2**

##### **Initial hearing; service of copy of petition and summons; schedule of initial hearing; notice; petition alleging a child is a child in need of services; additional initial hearings**

Sec. 2. (a) The juvenile court shall hold an initial hearing on each petition.

(b) The juvenile court shall set a time for the initial hearing. A summons shall be issued for the following:

- (1) The child.
- (2) The child's parent, guardian, custodian, guardian ad litem, or court appointed special advocate.
- (3) Any other person necessary for the proceedings.

(c) A copy of the petition must accompany each summons. The clerk shall issue the summons under Rule 4 of the Indiana Rules of Trial Procedure.

(d) If the initial hearing is not scheduled and held within the specified time as described in this section, the child shall be released to the child's parent, guardian, or custodian.

(e) The court may schedule an additional initial hearing on the child in need of services petition if necessary to comply with the procedures and requirements of this chapter with respect to any person to whom a summons has been issued under this section.

(f) An additional initial hearing on the child in need of services petition shall be held not more than thirty (30) calendar days after the date of the first initial hearing on the child in need of services petition, unless the court has:

- (1) granted an extension of time for extraordinary circumstances; and
- (2) stated the extraordinary circumstance in a written court order.

(g) The department shall provide notice of the date, time, place, and purpose of the initial hearing and any additional initial hearing scheduled under this section to each foster parent or other caretaker with whom the child has been temporarily placed under IC 31-34-2.5, IC 31-34-4, or IC 31-34-5. The court shall:

- (1) provide a:
  - (A) person for whom a summons is required to be issued under subsection (b); and
  - (B) person who is required to be notified under this subsection;

an opportunity to be heard; and  
(2) allow a person described in subdivision (1) to make recommendations to the court;  
at the initial hearing.

(h) A petition alleging that a child is a child in need of services shall be filed before a detention hearing concerning the child is held.

(i) If a detention hearing is held under IC 31-34-5, the initial hearing on the child in need of services petition shall be held at the same time as the detention hearing.

(j) The court may schedule an additional initial hearing on a child in need of services petition if necessary to comply with the procedures and requirements of this chapter with respect to any person to whom a summons has been issued under this section.

(k) An additional initial hearing under subsection (j) shall be held not more than thirty (30) calendar days after the date of the first initial hearing on the child in need of services petition unless the court:

- (1) grants an extension of time for extraordinary circumstances; and
- (2) states the extraordinary circumstance in a written court order.

*As added by P.L.1-1997, SEC.17. Amended by P.L.133-2000, SEC.4; P.L.217-2001, SEC.8; P.L.129-2005, SEC.7; P.L.138-2007, SEC.70; P.L.131-2009, SEC.62.*

### **IC 31-34-10-2.5**

#### **Repealed**

*(Repealed by P.L.217-2001, SEC.16.)*

### **IC 31-34-10-3**

#### **Appointment of guardian ad litem or court appointed special advocate**

Sec. 3. Before complying with the other requirements of this chapter, the juvenile court shall first determine whether the following conditions make it appropriate to appoint a guardian ad litem or a court appointed special advocate, or both, for the child:

- (1) If the child is alleged to be a child in need of services:
  - (A) under IC 31-34-1-6;
  - (B) under IC 31-34-1-10 or IC 31-34-1-11;
  - (C) due to the inability, refusal, or neglect of the child's parent, guardian, or custodian to supply the child with the necessary medical care; or
  - (D) because the location of both of the child's parents is unknown;

the court shall appoint a guardian ad litem or court appointed special advocate, or both, for the child.

- (2) If the child is alleged to be a child in need of services under:
  - (A) IC 31-34-1-1;
  - (B) IC 31-34-1-2;
  - (C) IC 31-34-1-3;

- (D) IC 31-34-1-4;
- (E) IC 31-34-1-5;
- (F) IC 31-34-1-7; or
- (G) IC 31-34-1-8;

the court shall appoint a guardian ad litem, court appointed special advocate, or both, for the child.

(3) If the parent, guardian, or custodian of a child denies the allegations of a petition under section 6 of this chapter, the court shall appoint a guardian ad litem, court appointed special advocate, or both, for the child.

*As added by P.L.1-1997, SEC.17. Amended by P.L.234-2005, SEC.180.*

#### **IC 31-34-10-4**

##### **Duty to inform child and parent, guardian, or custodian of nature of allegations and dispositional alternatives**

Sec. 4. The court shall next inform the child, if the child is at an age of understanding, and the child's parent, guardian, or custodian, if the person is present, of the following:

- (1) The nature of the allegations in the petition.
- (2) The dispositional alternatives available to the court if the child is adjudicated a child in need of services.

*As added by P.L.1-1997, SEC.17.*

#### **IC 31-34-10-5**

##### **Duty to inform parent or guardian of estate of effect of adjudication**

Sec. 5. The juvenile court shall inform the parent or guardian of the estate that if the child is adjudicated a child in need of services:

- (1) the parent, guardian, or custodian of the child may be required to participate in a program of care, treatment, or rehabilitation for the child;
- (2) the parent or guardian may be held financially responsible for services provided for the parent, guardian, or child; and
- (3) the parent, guardian, or custodian of the child may controvert the following:
  - (A) Allegations made at the child's dispositional or other hearing concerning the parent's, guardian's, or custodian's participation.
  - (B) Allegations concerning the parent's or guardian's financial responsibility for services that would be provided.

*As added by P.L.1-1997, SEC.17.*

#### **IC 31-34-10-6**

##### **Admission or denial of allegations by parent, guardian, or custodian**

Sec. 6. Except if a petition is filed under IC 31-34-1-6, the juvenile court shall determine whether the parent, guardian, or custodian admits or denies the allegations of the petition. A failure to respond constitutes a denial.

*As added by P.L.1-1997, SEC.17.*

#### **IC 31-34-10-7**

##### **Child's admission or denial of allegations**

Sec. 7. If a petition alleges that the child is a child in need of services under IC 31-34-1-6, the juvenile court shall determine whether the child admits or denies the allegations. A failure to respond constitutes a denial.

*As added by P.L.1-1997, SEC.17.*

#### **IC 31-34-10-8**

##### **Procedure following admission of allegations by parent, guardian, or custodian**

Sec. 8. If the parent, guardian, or custodian admits the allegations under section 6 of this chapter, the juvenile court shall do the following:

- (1) Enter judgment accordingly.
- (2) Schedule a dispositional hearing.

*As added by P.L.1-1997, SEC.17.*

#### **IC 31-34-10-9**

##### **Dispositional hearing; factfinding hearing; consent**

Sec. 9. (a) If the allegations of a petition have been admitted, the juvenile court may hold a dispositional hearing immediately after the initial hearing.

(b) If the allegations have been denied, the juvenile court may hold the factfinding hearing immediately after the initial hearing.

(c) The following persons must consent to holding a hearing under subsection (a) or (b) immediately after the initial hearing:

- (1) The child if competent to do so.
- (2) The child's:
  - (A) counsel;
  - (B) guardian ad litem;
  - (C) court appointed special advocate;
  - (D) parent;
  - (E) guardian; or
  - (F) custodian.

- (3) The person representing the interests of the state.

*As added by P.L.1-1997, SEC.17.*

## **IC 31-34-11**

### **Chapter 11. Factfinding Hearing on Child in Need of Services Petition**

#### **IC 31-34-11-1**

##### **Hearing requirements; extension of time; notice; opportunity to be heard**

Sec. 1. (a) Except as provided in subsection (b), unless the allegations of a petition have been admitted, the juvenile court shall complete a factfinding hearing not more than sixty (60) days after a petition alleging that a child is a child in need of services is filed in accordance with IC 31-34-9.

(b) The juvenile court may extend the time to complete a factfinding hearing, as described in subsection (a), for an additional sixty (60) days if all parties in the action consent to the additional time.

(c) If the factfinding hearing is not held immediately after the initial hearing as provided under IC 31-34-10-9, the department shall provide notice of any factfinding hearing to each foster parent or other caretaker with whom the child has been placed for temporary care. The court shall provide a person who is required to be notified under this subsection an opportunity to be heard at the factfinding hearing.

*As added by P.L.1-1997, SEC.17. Amended by P.L.146-2006, SEC.46; P.L.138-2007, SEC.71.*

#### **IC 31-34-11-2**

##### **Judgment; order of predisposition report; scheduling of dispositional hearing**

Sec. 2. If the court finds that a child is a child in need of services, the court shall:

- (1) enter judgment accordingly;
- (2) order a predisposition report; and
- (3) schedule a dispositional hearing.

*As added by P.L.1-1997, SEC.17.*

#### **IC 31-34-11-3**

##### **Discharge of child**

Sec. 3. If the court finds that a child is not a child in need of services, the court shall discharge the child.

*As added by P.L.1-1997, SEC.17.*

#### **IC 31-34-11-4**

##### **Judgment entry; continuance; release from juvenile detention facility pending entry of judgment**

Sec. 4. (a) Except as provided in subsection (b), at the close of all the evidence and before judgment is entered, the court may continue the case for not more than twelve (12) months.

(b) If the:

- (1) child;

- (2) child's parent, guardian, or custodian; or
- (3) department;

requests that judgment be entered, the judgment shall be entered not later than thirty (30) days after the request is made.

(c) If the child is in a juvenile detention facility, the child shall be released not later than forty-eight (48) hours, excluding Saturdays, Sundays, and legal holidays, pending the entry of judgment. A child released from a juvenile detention facility pending the entry of judgment may be detained in a shelter care facility.

*As added by P.L.1-1997, SEC.17. Amended by P.L.35-1998, SEC.7; P.L.146-2006, SEC.47.*

## **IC 31-34-12**

### **Chapter 12. Findings, Presumptions, and Evidence**

## **IC 31-34-12-1**

### **Burden of proof of delinquent act or crime**

Sec. 1. A finding by a juvenile court that a child committed a delinquent act, or that an adult committed a crime must be based upon proof beyond a reasonable doubt.

*As added by P.L.1-1997, SEC.17.*

## **IC 31-34-12-2**

### **Burden of proof in proceedings to terminate parental rights**

Sec. 2. Except as provided in IC 31-35-2-4.5(d), a finding in a proceeding to terminate parental rights must be based upon clear and convincing evidence.

*As added by P.L.1-1997, SEC.17. Amended by P.L.35-1998, SEC.8.*

## **IC 31-34-12-3**

### **Burden of proof in other cases**

Sec. 3. A finding not covered by section 1 or 2 of this chapter must be based upon a preponderance of the evidence.

*As added by P.L.1-1997, SEC.17.*

## **IC 31-34-12-4**

### **Presumption that child is child in need of services**

Sec. 4. A rebuttable presumption is raised that the child is a child in need of services because of an act or omission of the child's parent, guardian, or custodian if the state introduces competent evidence of probative value that:

- (1) the child has been injured;
- (2) at the time the child was injured, the parent, guardian, or custodian:
  - (A) had the care, custody, or control of the child; or
  - (B) had legal responsibility for the care, custody, or control of the child; and
- (3) the injury would not ordinarily be sustained except for the act or omission of a parent, guardian, or custodian.

*As added by P.L.1-1997, SEC.17.*

## **IC 31-34-12-4.5**

### **Presumption if living in household with victim of sex offense**

Sec. 4.5. (a) There is a rebuttable presumption that a child is a child in need of services if the state establishes that:

- (1) another child in the same household is the victim of a sex offense described in IC 31-34-1-3; and
- (2) the sex offense described in IC 31-34-1-3:
  - (A) was committed by an adult who lives in the household with the child; and
  - (B) resulted in a conviction of the adult or a judgment under IC 31-34-11-2 as it relates to the child against whom the sex

offense was committed.

(b) The following may not be used as grounds to rebut the presumption under subsection (a):

(1) The child who is the victim of the sex offense described in IC 31-34-1-3 is not genetically related to the adult who committed the act, but the child presumed to be the child in need of services under this section is genetically related to the adult who committed the act.

(2) The child who is the victim of the sex offense described in IC 31-34-1-3 differs in age from the child presumed to be the child in need of services under this section.

(c) This section does not affect the ability to take a child into custody or emergency custody under IC 31-34-2 if the act of taking the child into custody or emergency custody is not based upon a presumption established under this section. However, if the presumption established under this section is the sole basis for taking a child into custody or emergency custody under IC 31-34-2, the court first must find cause to take the child into custody or emergency custody following a hearing in which the parent, guardian, or custodian of the child is accorded the rights described in IC 31-34-4-6(a)(2) through IC 31-34-4-6(a)(5).

*As added by P.L.18-2004, SEC.2.*

#### **IC 31-34-12-5**

##### **Admissibility of evidence of prior or subsequent acts or omissions**

Sec. 5. Evidence that a prior or subsequent act or omission by a parent, guardian, or custodian injured a child is admissible in proceedings alleging that a child is a child in need of services to show the following:

(1) Intent, guilty knowledge, the absence of mistake or accident, identification, the existence of a common scheme or plan, or other similar purposes.

(2) A likelihood that the act or omission of the parent, guardian, or custodian is responsible for the child's current injury or condition.

*As added by P.L.1-1997, SEC.17.*

#### **IC 31-34-12-6**

##### **Admissibility of privileged communications**

Sec. 6. Neither:

(1) the physician-patient privilege; nor

(2) the husband-wife privilege;

is grounds for excluding evidence in a proceeding in which the child is alleged to be a child in need of services.

*As added by P.L.1-1997, SEC.17.*

#### **IC 31-34-12-7**

##### **Failure to submit to drug or alcohol test**

Sec. 7. (a) For purposes of an assessment by the department, if:

(1) a parent, guardian, or custodian had care, custody, and



control of the child immediately before the child died;

(2) a law enforcement officer or an employee of the department had probable cause to believe the parent, guardian, or custodian was impaired, intoxicated, or under the influence of drugs or alcohol immediately before or at the time of the child's death;

(3) a law enforcement officer or an employee of the department requests, not later than three (3) hours after the death of the child, the parent, guardian, or custodian to submit to a drug or alcohol screen test; and

(4) the parent, guardian, or custodian did not submit to a drug or alcohol screen test within three (3) hours after the request by a law enforcement officer or an employee of the department;

the failure to submit to the drug or alcohol test may be used to determine that the parent, guardian, or custodian was intoxicated or under the influence of alcohol or drugs at the time of the child's death for the purpose of the determination required under IC 31-33-8-12.

(b) Evidence from a drug or alcohol screen test administered under this section is not admissible as evidence in a criminal proceeding.

*As added by P.L.131-2009, SEC.63.*

### **IC 31-34-13**

#### **Chapter 13. Child Videotape Testimony in Child in Need of Services Proceedings**

### **IC 31-34-13-1**

#### **Application of chapter**

Sec. 1. This chapter applies to an action initiated to determine if a child is a child in need of services under:

- (1) IC 31-34-1-1 through IC 31-34-1-6;
- (2) IC 31-34-1-10; or
- (3) IC 31-34-1-11.

*As added by P.L.1-1997, SEC.17.*

### **IC 31-34-13-2**

#### **Admissibility of statements or videotapes**

Sec. 2. A statement or videotape that:

(1) is made by a child who at the time of the statement or videotape:

- (A) is less than fourteen (14) years of age; or
- (B) is at least fourteen (14) years of age but less than eighteen (18) years of age and has a disability attributable to an impairment of general intellectual functioning or adaptive behavior that:

- (i) is likely to continue indefinitely;
- (ii) constitutes a substantial disability to the child's ability to function normally in society; and
- (iii) reflects the child's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services that are of lifelong or extended duration and are individually planned and coordinated;

(2) concerns an act that is a material element in determining whether a child is a child in need of services; and

(3) is not otherwise admissible in evidence under statute or court rule;

is admissible in evidence in an action described in section 1 of this chapter if the requirements of section 3 of this chapter are met.

*As added by P.L.1-1997, SEC.17. Amended by P.L.1-2009, SEC.160.*

### **IC 31-34-13-3**

#### **Requirements for admissibility of statements or videotapes**

Sec. 3. A statement or videotape described in section 2 of this chapter is admissible in evidence in an action to determine whether a child or a whole or half blood sibling of the child is a child in need of services if, after notice to the parties of a hearing and of their right to be present:

- (1) the court finds that the time, content, and circumstances of the statement or videotape and any other evidence provide sufficient indications of reliability; and
- (2) the child:

- (A) testifies at the proceeding to determine whether the child

or a whole or half blood sibling of the child is a child in need of services;

(B) was available for face-to-face cross-examination when the statement or videotape was made; or

(C) is found by the court to be unavailable as a witness because:

(i) a psychiatrist, physician, or psychologist has certified that the child's participation in the proceeding creates a substantial likelihood of emotional or mental harm to the child;

(ii) a physician has certified that the child cannot participate in the proceeding for medical reasons; or

(iii) the court has determined that the child is incapable of understanding the nature and obligation of an oath.

*As added by P.L.1-1997, SEC.17.*

#### **IC 31-34-13-4**

##### **Informing parties of intention to introduce and contents of statements and videotapes**

Sec. 4. A statement or videotape may not be admitted in evidence under this chapter unless the attorney for the department informs the parties of:

(1) an intention to introduce the statement or videotape in evidence; and

(2) the content of the statement or videotape;

at least seven (7) days before the proceedings to give the parties a fair opportunity to prepare a response to the statement or videotape before the proceeding.

*As added by P.L.1-1997, SEC.17. Amended by P.L.145-2006, SEC.296; P.L.146-2008, SEC.589.*

## **IC 31-34-14**

### **Chapter 14. Child Testimony by Closed Circuit Television in Child in Need of Services Proceedings**

## **IC 31-34-14-1**

### **Application of chapter**

Sec. 1. This chapter applies to an action to determine whether a child is a child in need of services under:

- (1) IC 31-34-1-1 through IC 31-34-1-6;
- (2) IC 31-34-1-10; or
- (3) IC 31-34-1-11.

*As added by P.L.1-1997, SEC.17.*

## **IC 31-34-14-2**

### **Court order for use of closed circuit television**

Sec. 2. On the motion of the attorney for the department, the court may order that:

- (1) the testimony of a child be taken in a room other than the courtroom and be transmitted to the courtroom by closed circuit television; and
- (2) the questioning of the child by the parties be transmitted to the child by closed circuit television.

*As added by P.L.1-1997, SEC.17. Amended by P.L.145-2006, SEC.297; P.L.146-2008, SEC.590.*

## **IC 31-34-14-3**

### **Court order for use of videotapes**

Sec. 3. On the motion of the attorney for the department, the court may order that the testimony of a child be videotaped for use at proceedings to determine whether a child or a whole or half blood sibling of the child is a child in need of services.

*As added by P.L.1-1997, SEC.17. Amended by P.L.145-2006, SEC.298; P.L.146-2008, SEC.591.*

## **IC 31-34-14-4**

### **Children may testify outside court proceeding; informing parties of intention to testify**

Sec. 4. The court may not make an order under section 2 or 3 of this chapter unless:

- (1) the testimony to be taken is the testimony of a child who at the time of the trial is:
  - (A) less than fourteen (14) years of age; or
  - (B) at least fourteen (14) years of age but less than eighteen (18) years of age and has a disability attributable to an impairment of general intellectual functioning or adaptive behavior that:
    - (i) is likely to continue indefinitely;
    - (ii) constitutes a substantial impairment of the child's ability to function normally in society; and
    - (iii) reflects the child's need for a combination and

sequence of special, interdisciplinary, or generic care, treatment, or other services that are of lifelong or extended duration and are individually planned and coordinated; and (C) found by the court to be a child who should be permitted to testify outside the courtroom because:

- (i) a psychiatrist, physician, or psychologist has certified that the child's testifying in the courtroom creates a substantial likelihood of emotional or mental harm to the child;
  - (ii) a physician has certified that the child cannot be present in the courtroom for medical reasons; or
  - (iii) evidence has been introduced concerning the effect of the child's testifying in the courtroom and the court finds that it is more likely than not that the child's testifying in the courtroom creates a substantial likelihood of emotional or mental harm to the child;
- (2) the attorney for the department has informed the parties and their attorneys by written notice of the intention to have the child testify outside the courtroom; and
- (3) the attorney for the department informed the parties and their attorneys under subdivision (2) at least seven (7) days before the proceedings to give the parties and their attorneys a fair opportunity to prepare a response before the proceedings to the motion of the attorney for the department to permit the child to testify outside the courtroom.

*As added by P.L.1-1997, SEC.17. Amended by P.L.145-2006, SEC.299; P.L.146-2008, SEC.592.*

#### **IC 31-34-14-5**

##### **Persons who may be present during child's testimony; closed circuit television**

Sec. 5. If the court makes an order under section 2 of this chapter, only the following persons may be in the same room as the child during the child's testimony:

- (1) Persons necessary to operate the closed circuit television equipment.
- (2) Persons whose presence the court finds will contribute to the child's well-being.
- (3) A court bailiff or court representative.

*As added by P.L.1-1997, SEC.17.*

#### **IC 31-34-14-6**

##### **Persons who may be present during child's testimony; videotapes**

Sec. 6. If the court makes an order under section 3 of this chapter, only the following persons may be in the same room as the child during the child's videotaped testimony:

- (1) The judge.
- (2) The attorney for the department.
- (3) The attorney for each party.
- (4) Persons necessary to operate the electronic equipment.

(5) The court reporter.

(6) Persons whose presence the court finds will contribute to the child's well-being.

(7) The parties, who can observe and hear the testimony of the child without the child being able to observe or hear the parties. However, if a party is not represented by an attorney, the party may question the child.

*As added by P.L.1-1997, SEC.17. Amended by P.L.145-2006, SEC.300; P.L.146-2008, SEC.593.*

#### **IC 31-34-14-7**

##### **Persons who may question child**

Sec. 7. If the court makes an order under section 2 or 3 of this chapter, only the following persons may question the child:

(1) The attorney for the department.

(2) The attorneys for the parties.

(3) The judge.

*As added by P.L.1-1997, SEC.17. Amended by P.L.145-2006, SEC.301; P.L.146-2008, SEC.594.*

## **IC 31-34-15**

### **Chapter 15. Case Plan**

## **IC 31-34-15-1**

### **Requirement of case plan**

Sec. 1. In accordance with federal law, a case plan is required for each child in need of services who is under the supervision of the county as a result of:

- (1) out-of-home placement; or
- (2) issuance of a dispositional decree under IC 31-34-20.

*As added by P.L.1-1997, SEC.17.*

## **IC 31-34-15-2**

### **Time for completion**

Sec. 2. The department, after negotiating with the child's parent, guardian, or custodian, shall complete a child's case plan not later than sixty (60) days after:

- (1) the date of the child's first placement; or
- (2) the date of a dispositional decree;

whichever comes first.

*As added by P.L.1-1997, SEC.17. Amended by P.L.145-2006, SEC.302.*

## **IC 31-34-15-3**

### **Provision of copy of completed case plan**

Sec. 3. A copy of the completed case plan shall be sent to the child's parent, guardian, or custodian and to an agency having the legal responsibility or authorization to care for, treat, or supervise the child not later than ten (10) days after the plan's completion.

*As added by P.L.1-1997, SEC.17. Amended by P.L.146-2008, SEC.595.*

## **IC 31-34-15-4**

### **Form; contents**

Sec. 4. A child's case plan must be set out in a form prescribed by the department that meets the specifications set by 45 CFR 1356.21. The case plan must include a description and discussion of the following:

- (1) A permanent plan for the child and an estimated date for achieving the goal of the plan.
- (2) The appropriate placement for the child based on the child's special needs and best interests.
- (3) The least restrictive family-like setting that is close to the home of the child's parent, custodian, or guardian if out-of-home placement is recommended. If an out-of-home placement is appropriate, the county office or department shall consider whether a child in need of services should be placed with the child's suitable and willing blood or adoptive relative caretaker, including a grandparent, an aunt, an uncle, or an adult sibling, before considering other out-of-home placements for

the child.

(4) Family services recommended for the child, parent, guardian, or custodian.

(5) Efforts already made to provide family services to the child, parent, guardian, or custodian.

(6) Efforts that will be made to provide family services that are ordered by the court.

(7) A plan for ensuring the educational stability of the child while in foster care that includes assurances that the:

(A) placement of the child in foster care considers the appropriateness of the current educational setting of the child and the proximity to the school where the child is presently enrolled; and

(B) department has coordinated with local educational agencies to ensure:

(i) the child remains in the school where the child is enrolled at the time of removal; or

(ii) immediate, appropriate enrollment of the child in a different school, including arrangements for the transfer of the child's school records to the new school, if remaining in the same school is not in the best interests of the child.

*As added by P.L.1-1997, SEC.17. Amended by P.L.145-2006, SEC.303; P.L.131-2009, SEC.64.*

#### **IC 31-34-15-5**

##### **Cooperation in development of plan**

Sec. 5. Each foster parent of a child and the department shall cooperate in the development of the case plan for the child. The department shall discuss with at least one (1) foster parent of a child the foster parent's role regarding the following:

(1) Rehabilitation of the child and the child's parents, guardians, and custodians.

(2) Visitation arrangements.

(3) Services required to meet the special needs of the child.

*As added by P.L.1-1997, SEC.17. Amended by P.L.145-2006, SEC.304.*

#### **IC 31-34-15-6**

##### **Filing of paternity action by local prosecuting attorney's office**

Sec. 6. (a) This section applies whenever a child who was born out of wedlock is:

(1) or is alleged to be a child in need of services; and

(2) under the supervision of the department or a county office as a result of a court ordered out-of-home placement.

(b) The department or the county office shall refer a child's case to the local prosecuting attorney's office for the filing of a paternity action if the:

(1) identity of the alleged father is known; and

(2) department or the county office reasonably believes that establishing the paternity of the child would be beneficial to the



child.

The local prosecuting attorney's office shall file a paternity action regarding each case that is referred under this subsection. The department shall sign the paternity petition as the child's next friend.

*As added by P.L.103-1997, SEC.5. Amended by P.L.145-2006, SEC.305.*

## **IC 31-34-16**

### **Chapter 16. Petition for Parental Participation**

#### **IC 31-34-16-1**

##### **Standing**

Sec. 1. Any of the following may sign and file a petition for the juvenile court to require the participation of a parent, guardian, or custodian in a program of care, treatment, or rehabilitation for a child:

(1) The attorney for the department.

(2) The guardian ad litem or court appointed special advocate.

*As added by P.L.1-1997, SEC.17. Amended by P.L.145-2006, SEC.306; P.L.146-2008, SEC.596.*

#### **IC 31-34-16-2**

##### **Verification**

Sec. 2. A petition filed under section 1 of this chapter must be verified.

*As added by P.L.1-1997, SEC.17.*

#### **IC 31-34-16-3**

##### **Caption; allegations**

Sec. 3. A petition seeking participation of a parent, guardian, or custodian must be entitled "In the Matter of the Participation of \_\_\_\_\_ the Parent, Guardian, or Custodian of \_\_\_\_\_". The petition must allege the following:

(1) That the respondent is the child's parent, guardian, or custodian.

(2) That the child has been adjudicated a child in need of services.

(3) That the parent, guardian, or custodian should:

(A) obtain assistance in fulfilling obligations as a parent, guardian, or custodian;

(B) provide specified care, treatment, or supervision for the child;

(C) work with a person providing care, treatment, or rehabilitation for the child; or

(D) refrain from direct or indirect contact with the child.

*As added by P.L.1-1997, SEC.17.*

#### **IC 31-34-16-4**

##### **Hearing; advisement to parent; decree**

Sec. 4. (a) The court may hold a hearing on a petition concurrently with a dispositional hearing or with a hearing to modify a dispositional decree.

(b) If the order concerns participation of a parent, the juvenile court shall advise the parent that failure to participate as required by an order issued under IC 31-34-20-3 (or IC 31-6-4-15.8 before its repeal) can lead to the termination of the parent-child relationship under IC 31-35.

(c) If the court finds that the allegations under section 3 of this chapter are true, the court shall enter a decree.

*As added by P.L.1-1997, SEC.17.*

**IC 31-34-17**

**Repealed**

*(Repealed by P.L.133-2002, SEC.69.)*

## **IC 31-34-18**

### **Chapter 18. Predispositional Report**

#### **IC 31-34-18-1**

##### **Predispositional report; recommendation of care, treatment, or rehabilitation of child; alternative reports**

Sec. 1. (a) Upon finding that a child is a child in need of services, the juvenile court shall order the department or a caseworker to prepare a predispositional report that contains a:

- (1) statement of the needs of the child for care, treatment, rehabilitation, or placement; and
- (2) recommendation for the care, treatment, rehabilitation, or placement of the child.

(b) Any of the following may prepare an alternative report for consideration by the court:

- (1) The child.
- (2) The child's:
  - (A) parent;
  - (B) guardian;
  - (C) guardian ad litem;
  - (D) court appointed special advocate; or
  - (E) custodian.

*As added by P.L.1-1997, SEC.17. Amended by P.L.55-1997, SEC.14; P.L.146-2008, SEC.597.*

#### **IC 31-34-18-1.1**

##### **Consultation with experts; participants in conference**

Sec. 1.1. (a) The person preparing the report under section 1 of this chapter:

- (1) may; or
- (2) if directed by the court, shall;

confer with individuals who have expertise in professional areas related to the child's needs in the areas of appropriate care, treatment, rehabilitation, or placement for a child in need of services.

(b) A conference held under this section may include representatives of the following:

- (1) The child's school.
- (2) The probation department.
- (3) The department.
- (4) A community mental health center located in the child's county of residence.
- (5) A community mental retardation and other developmental disabilities center located in the child's county of residence.
- (6) Other persons as the court may direct.

*As added by P.L.55-1997, SEC.15. Amended by P.L.145-2006, SEC.307.*

#### **IC 31-34-18-1.2**

##### **Mandatory attendance of child's school representative at conference**

Sec. 1.2. If a child in need of services is known to be eligible for special education services or placement under IC 20-35 and 511 IAC 7, the conference described in section 1.1 of this chapter must include a representative from the child's school.

*As added by P.L.55-1997, SEC.16. Amended by P.L.1-2005, SEC.204.*

### **IC 31-34-18-1.3**

#### **Reports by meeting participants**

Sec. 1.3. (a) The individuals participating in a meeting described in section 1.1 of this chapter shall assist the person preparing the report in recommending the care, treatment, rehabilitation, or placement of the child.

(b) The individuals shall inform the person preparing the report of resources and programs that are available for the child.

*As added by P.L.55-1997, SEC.17.*

### **IC 31-34-18-2**

#### **Predispositional report; participation by parent, guardian, or custodian; out-of-home placement with blood or adoptive relative caretaker**

Sec. 2. (a) In addition to providing the court with a recommendation for the care, treatment, or rehabilitation of the child, the person preparing the report shall consider the necessity, nature, and extent of the participation by a parent, guardian, or custodian in a program of care, treatment, or rehabilitation for the child.

(b) If the department or caseworker believes that an out-of-home placement would be appropriate for a child in need of services, the department or caseworker shall consider whether the child should be placed with the child's suitable and willing blood or adoptive relative caretaker, including a grandparent, an aunt, an uncle, or an adult sibling, before considering other out-of-home placements for the child.

*As added by P.L.1-1997, SEC.17. Amended by P.L.146-2008, SEC.598.*

### **IC 31-34-18-3**

#### **Financial reports**

Sec. 3. The department or caseworker shall also prepare a financial report on the parent or the estate of the child to assist the juvenile court in determining the person's financial responsibility for services provided for the child or the person.

*As added by P.L.1-1997, SEC.17. Amended by P.L.146-2008, SEC.599.*

### **IC 31-34-18-4**

#### **Recommendation on care, treatment, rehabilitation, or placement**

Sec. 4. If consistent with the safety and best interest of the child and the community, the person preparing the report shall recommend care, treatment, rehabilitation, or placement that:

- (1) is:
  - (A) in the least restrictive (most family like) and most appropriate setting available; and
  - (B) close to the parents' home, consistent with the best interest and special needs of the child;
- (2) least interferes with family autonomy;
- (3) is least disruptive of family life;
- (4) imposes the least restraint on the freedom of the child and the child's parent, guardian, or custodian; and
- (5) provides a reasonable opportunity for participation by the child's parent, guardian, or custodian.

*As added by P.L.1-1997, SEC.17. Amended by P.L.55-1997, SEC.18.*

### **IC 31-34-18-5**

#### **Examinations**

Sec. 5. The juvenile court may do the following:

- (1) Authorize any examination of the child under IC 31-32-12.
- (2) Make provision for similar examination of the parent, guardian, or custodian if the person gives consent.

*As added by P.L.1-1997, SEC.17.*

### **IC 31-34-18-6**

#### **Disclosure**

Sec. 6. (a) Predispositional reports shall be made available within a reasonable time before the dispositional hearing, unless the juvenile court determines on the record that the reports contain information that should not be released to the child or the child's parent, guardian, or custodian.

(b) The court shall provide a copy of the report to:

- (1) each attorney, guardian ad litem, or court appointed special advocate representing the child; and
- (2) each attorney representing the child's parent, guardian, or custodian.

(c) The court may provide a factual summary of the report to:

- (1) the child; or
- (2) the child's parent, guardian, or custodian.

*As added by P.L.1-1997, SEC.17. Amended by P.L.197-1997, SEC.27.*

### **IC 31-34-18-6.1**

#### **Predispositional report; contents**

Sec. 6.1. (a) The predispositional report prepared by the department or caseworker must include the following information:

- (1) A description of all dispositional options considered in preparing the report.
- (2) An evaluation of each of the options considered in relation to the plan of care, treatment, rehabilitation, or placement recommended under the guidelines described in section 4 of this chapter.
- (3) The name, occupation and position, and any relationship to

the child of each person with whom the preparer of the report conferred as provided in section 1.1 of this chapter.

(b) If the department or caseworker is considering an out-of-home placement, including placement with a blood or an adoptive relative caretaker, the department or caseworker shall conduct a criminal history check (as defined in IC 31-9-2-22.5) for each person who is currently residing in the location designated as the out-of-home placement. The results of the criminal history check must be included in the predispositional report.

(c) The department or caseworker is not required to conduct a criminal history check under this section if:

(1) the department or caseworker is considering only an out-of-home placement to an entity or a facility that:

(A) is not a residence (as defined in IC 3-5-2-42.5); or

(B) is licensed by the state; or

(2) placement under this section is undetermined at the time the predispositional report is prepared.

*As added by P.L.55-1997, SEC.19. Amended by P.L.70-2004, SEC.19; P.L.234-2005, SEC.181; P.L.145-2006, SEC.308; P.L.146-2008, SEC.600.*



## **IC 31-34-19**

### **Chapter 19. Dispositional Hearing**

#### **IC 31-34-19-1**

##### **Dispositional hearing; issues for consideration**

Sec. 1. The juvenile court shall complete a dispositional hearing not more than thirty (30) days after the date the court finds that a child is a child in need of services to consider the following:

- (1) Alternatives for the care, treatment, rehabilitation, or placement of the child.
- (2) The necessity, nature, and extent of the participation by a parent, a guardian, or a custodian in the program of care, treatment, or rehabilitation for the child.
- (3) The financial responsibility of the parent or guardian of the estate for services provided for the parent or guardian or the child.

*As added by P.L.1-1997, SEC.17. Amended by P.L.55-1997, SEC.20; P.L.146-2006, SEC.48.*

#### **IC 31-34-19-1.1**

##### **Mandatory attendance at predispositional hearing by report preparer**

Sec. 1.1. At a dispositional hearing under this chapter, the person that prepared the predispositional report:

- (1) must be present, if possible; and
- (2) if present, shall provide testimony when requested to explain how the individuals participating in the conference described in IC 31-34-18:
  - (A) examined the available options; and
  - (B) recommended the options that most closely coincide with the guidelines provided in IC 31-34-18-4.

*As added by P.L.55-1997, SEC.21.*

#### **IC 31-34-19-1.3**

##### **Notice of disposition of hearing; duties of court**

Sec. 1.3. (a) The department shall provide notice of the date, time, place, and purpose of the dispositional hearing under this chapter to each:

- (1) party or person for whom a summons is required to be issued under IC 31-34-10-2; and
- (2) foster parent or other caretaker with whom the child is placed for temporary care;

at the time the dispositional hearing is scheduled.

(b) The court shall:

- (1) provide a person required to be notified under subsection (a) an opportunity to be heard; and
- (2) allow a person described in subdivision (1) to make recommendations to the court;

at the dispositional hearing.

*As added by P.L.138-2007, SEC.72.*

### **IC 31-34-19-2**

#### **Admissibility of reports**

Sec. 2. (a) Any predispositional report may be admitted into evidence to the extent that the report contains evidence of probative value even if the report would otherwise be excluded.

(b) If a report contains information that should not be released to the child or the child's parent, guardian, or custodian, a factual summary of the report may be admitted.

(c) The:

- (1) child;
- (2) child's parent, guardian, or custodian;
- (3) person representing the interests of the state; and
- (4) foster parent or other caretaker who is entitled to notice of the dispositional hearing under section 1.3 of this chapter;

shall be given a fair opportunity to controvert any part of the report admitted into evidence.

*As added by P.L.1-1997, SEC.17. Amended by P.L.138-2007, SEC.73.*

### **IC 31-34-19-3**

#### **Civil commitment; child with a mental illness**

Sec. 3. If it appears to the juvenile court that a child has a mental illness, the court may:

- (1) refer the matter to the court having probate jurisdiction for civil commitment proceedings under IC 12-26; or
- (2) initiate a civil commitment proceeding under IC 12-26.

*As added by P.L.1-1997, SEC.17. Amended by P.L.99-2007, SEC.196.*

### **IC 31-34-19-4**

#### **Discharge of child; continuance of proceeding; no release of county office of family and children or the department of child services from obligations to child**

Sec. 4. If:

- (1) a child is referred to a probate court;
- (2) the juvenile court initiates a commitment proceeding; or
- (3) the court transfers a commitment proceeding under IC 12-26-1-4;

the juvenile court shall discharge the child or continue the court's proceedings under the juvenile law. However, if the child is under the custody or supervision of a county office or the department, the juvenile court may not release the county office from the obligations of the county office or the department to the child pending the outcome of the proceeding under IC 12-26.

*As added by P.L.1-1997, SEC.17. Amended by P.L.145-2006, SEC.309.*

### **IC 31-34-19-5**

#### **Release of county office of family and children or the department of child services from obligations to child placed in state institution**

**for voluntary treatment**

Sec. 5. If the court authorizes a child who is under the custody or supervision of a county office or the department to be placed in a state institution (as defined in IC 12-7-2-184) for voluntary treatment in accordance with IC 12-26-3, the court may not release the department from obligations of the county office or the department to the child until a parent, guardian, or other responsible person approved by the court assumes the obligations.

*As added by P.L.1-1997, SEC.17. Amended by P.L.145-2006, SEC.310.*

**IC 31-34-19-6**

**Dispositional decree; factors**

Sec. 6. If consistent with the safety of the community and the best interest of the child, the juvenile court shall enter a dispositional decree that:

(1) is:

(A) in the least restrictive (most family like) and most appropriate setting available; and

(B) close to the parents' home, consistent with the best interest and special needs of the child;

(2) least interferes with family autonomy;

(3) is least disruptive of family life;

(4) imposes the least restraint on the freedom of the child and the child's parent, guardian, or custodian; and

(5) provides a reasonable opportunity for participation by the child's parent, guardian, or custodian.

*As added by P.L.1-1997, SEC.17. Amended by P.L.55-1997, SEC.22.*

**IC 31-34-19-6.1**

**Juvenile court entering dispositional decree; department consideration of juvenile court recommendations; written findings by juvenile court; appeal by department; payment of costs and expenses**

Sec. 6.1. (a) Before entering its dispositional decree, the juvenile court shall do the following:

(1) Consider the recommendations for the needs of the child for care, treatment, rehabilitation, or placement made by the department in the department's predispositional report.

(2) Consider the recommendations for the needs of the child for care, treatment, rehabilitation, or placement made by the parent, guardian or custodian, guardian ad litem or court appointed special advocate, foster parent, other caretaker of the child, or other party to the proceeding.

(3) If the juvenile court determines that the best interests of the child require consideration of other dispositional options, submit the juvenile court's own recommendations for care, treatment, rehabilitation, or placement of the child.

(b) If the juvenile court accepts the recommendations in the department's predispositional report, the juvenile court shall enter its

dispositional decree with its findings and conclusions under section 10 of this chapter.

(c) If during or after conclusion of the dispositional hearing, the juvenile court does not accept the recommendations of the department as set out under subsection (a) in the predispositional report and states that the juvenile court wants the department to consider the recommendations made under subsection (a)(2) or (a)(3), the dispositional hearing shall be continued for not more than seven (7) business days after service of notice of the juvenile court's determination. The department shall consider the recommendations that the juvenile court requested the department to consider and submit to the juvenile court a supplemental predispositional report stating the department's final recommendations and reasons for accepting or rejecting the recommendations that were not included in the department's original predispositional report. If the juvenile court accepts the recommendations in the department's supplemental report, the juvenile court may adopt the recommendations as its findings and enter its dispositional decree.

(d) The juvenile court shall accept each final recommendation of the department contained in a supplemental predispositional report submitted under subsection (c), unless the juvenile court finds that a recommendation is:

- (1) unreasonable, based on the facts and circumstances of the case; or
- (2) contrary to the welfare and best interests of the child.

(e) If the juvenile court does not accept one (1) or more of the department's final recommendations contained in the department's supplemental predispositional report, the juvenile court shall:

- (1) enter its dispositional decree with its written findings and conclusions under sections 6 and 10 of this chapter; and
- (2) specifically state why the juvenile court is not accepting the final recommendations of the department.

(f) If the juvenile court enters its findings and decree under subsections (d) and (e), the department may appeal the juvenile court's decree under any available procedure provided by the Indiana Rules of Trial Procedure or the Indiana Rules of Appellate Procedure to allow any disputes arising under this section to be decided in an expeditious manner.

(g) If the department prevails on appeal, the department shall pay the following costs and expenses incurred by or on behalf of the child before the date of the final decision:

- (1) Any programs or services implemented during the appeal initiated under subsection (f), other than the cost of an out-of-home placement ordered by the juvenile court.
- (2) Any out-of-home placement ordered by the juvenile court and implemented after entry of the dispositional decree or modification order, if the court has made written findings that the placement is an emergency required to protect the health and welfare of the child.

If the court has not made written findings that the placement is an

emergency, the county in which the juvenile court is located is responsible for payment of all costs of the placement, including the cost of services and programs provided by the home or facility where the child was placed.

*As added by P.L.146-2008, SEC.601.*

#### **IC 31-34-19-7**

##### **Factors to consider for dispositional decrees that include out-of-home placement**

Sec. 7. In addition to the factors under section 6 of this chapter, if the court enters a dispositional decree regarding a child in need of services that includes an out-of-home placement, the court shall consider whether the child should be placed with the child's suitable and willing blood or adoptive relative caretaker, including a grandparent, an aunt, an uncle, or an adult sibling, before considering other out-of-home placements for the child.

*As added by P.L.1-1997, SEC.17. Amended by P.L.70-2004, SEC.20; P.L.234-2005, SEC.182.*

#### **IC 31-34-19-8**

##### **Provision of copies of dispositional report**

Sec. 8. The juvenile court shall send a copy of the dispositional report described in section 10 of this chapter to each person who receives placement or wardship of the child.

*As added by P.L.1-1997, SEC.17.*

#### **IC 31-34-19-9**

##### **Advisement of modification procedures**

Sec. 9. The juvenile court shall advise the child and the child's parent, guardian, or custodian of the procedures under IC 31-34-23.

*As added by P.L.1-1997, SEC.17.*

#### **IC 31-34-19-10**

##### **Findings and conclusions**

Sec. 10. (a) The juvenile court shall accompany the court's dispositional decree with written findings and conclusions upon the record concerning the following:

- (1) The needs of the child for care, treatment, rehabilitation, or placement.
- (2) The need for participation by the parent, guardian, or custodian in the plan of care for the child.
- (3) Efforts made, if the child is a child in need of services, to:
  - (A) prevent the child's removal from; or
  - (B) reunite the child with;the child's parent, guardian, or custodian in accordance with federal law.
- (4) Family services that were offered and provided to:
  - (A) a child in need of services; or
  - (B) the child's parent, guardian, or custodian;in accordance with federal law.

(5) The court's reasons for the disposition.

(b) The juvenile court may incorporate a finding or conclusion from a predispositional report as a written finding or conclusion upon the record in the court's dispositional decree.

*As added by P.L. 1-1997, SEC. 17. Amended by P.L. 55-1997, SEC. 23; P.L. 146-2006, SEC. 49.*

## **IC 31-34-20**

### **Chapter 20. Dispositional Decrees**

#### **IC 31-34-20-1**

##### **Entry of dispositional decree; placement in home or facility outside Indiana; removal of child; award of wardship**

Sec. 1. (a) Subject to this section and section 1.5 of this chapter, if a child is a child in need of services, the juvenile court may enter one (1) or more of the following dispositional decrees:

- (1) Order supervision of the child by the department.
- (2) Order the child to receive outpatient treatment:
  - (A) at a social service agency or a psychological, a psychiatric, a medical, or an educational facility; or
  - (B) from an individual practitioner.
- (3) Remove the child from the child's home and authorize the department to place the child in another home or shelter care facility. Placement under this subdivision includes authorization to control and discipline the child.
- (4) Award wardship of the child to the department for supervision, care, and placement.
- (5) Partially or completely emancipate the child under section 6 of this chapter.
- (6) Order the child's parent, guardian, or custodian to complete services recommended by the department and approved by the court under IC 31-34-16, IC 31-34-18, and IC 31-34-19.
- (7) Order a person who is a party to refrain from direct or indirect contact with the child.
- (8) Order a perpetrator of child abuse or neglect to refrain from returning to the child's residence.

(b) A juvenile court may not place a child in a home or facility that is located outside Indiana unless:

- (1) the placement is recommended or approved by the director of the department or the director's designee; or
- (2) the juvenile court makes written findings based on clear and convincing evidence that:
  - (A) the out-of-state placement is appropriate because there is not a comparable facility with adequate services located in Indiana; or
  - (B) the location of the home or facility is within a distance not greater than fifty (50) miles from the county of residence of the child.

(c) If a dispositional decree under this section:

- (1) orders or approves removal of a child from the child's home or awards wardship of the child to the department; and
- (2) is the first juvenile court order in the child in need of services proceeding that authorizes or approves removal of the child from the child's parent, guardian, or custodian;

the juvenile court shall include in the decree the appropriate findings and conclusions described in IC 31-34-5-3(b) and IC 31-34-5-3(c).

*As added by P.L. 1-1997, SEC.17. Amended by P.L. 70-2004, SEC.21;*

*P.L.145-2006, SEC.311; P.L.146-2006, SEC.50; P.L.52-2007, SEC.10; P.L.146-2008, SEC.602.*

#### **IC 31-34-20-1.5**

##### **Placement in household with certain individuals prohibited; criminal history checks; exceptions; considerations**

Sec. 1.5. (a) Except as provided in subsection (d), the juvenile court may not enter a dispositional decree approving or ordering placement of a child in another home under section 1(a)(3) of this chapter or awarding wardship to the department that will place the child in another home under section 1(a)(4) of this chapter if a person who is currently residing in the home in which the child would be placed under section 1(a)(3) or 1(a)(4) of this chapter has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 31-27-4-13 if committed by an adult, or has a conviction for a felony listed in IC 31-27-4-13.

(b) The department or caseworker who prepared the predispositional report shall conduct a criminal history check (as defined in IC 31-9-2-22.5) to determine if a person described in subsection (a) has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 31-27-4-13 if committed by an adult, or has a conviction for a felony listed in IC 31-27-4-13. However, the department or caseworker is not required to conduct a criminal history check under this section if criminal history information under IC 31-34-4-2 or IC 31-34-18-6.1 establishes whether a person described in subsection (a) has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 31-27-4-13(a) if committed by an adult, or has a conviction for a felony listed in IC 31-27-4-13(a).

(c) The department or caseworker is not required to conduct a criminal history check under this section if:

(1) the department or caseworker is considering only an out-of-home placement to an entity or a facility that:

(A) is not a residence (as defined in IC 3-5-2-42.5); or

(B) is licensed by the state; or

(2) placement under this section is undetermined at the time the predispositional report is prepared.

(d) A juvenile court may enter a dispositional decree that approves placement of a child in another home or award wardship to the department that will place the child in a home with a person described in subsection (a) if:

(1) the person described in subsection (a) has:

(A) committed an act resulting in a substantiated report of child abuse or neglect;

(B) been convicted of:

(i) battery (IC 35-42-2-1) as a felony;

(ii) criminal confinement (IC 35-42-3-3) as a felony;



- (iii) carjacking (IC 35-42-5-2) as a felony;
- (iv) arson (IC 35-43-1-1) as a felony;
- (v) a felony involving a weapon under IC 35-47 or IC 35-47.5;
- (vi) a felony relating to controlled substances under IC 35-48-4; or
- (vii) a felony that is substantially equivalent to a felony listed in items (i) through (vi) for which the conviction was entered in another state;

if the conviction did not occur within the past five (5) years;  
or

(C) had a juvenile adjudication for an act listed in IC 31-27-4-13(a) that, if committed by an adult, would be a felony; and

(2) the person's commission of the offense, delinquent act, or act of abuse or neglect described in subdivision (1) is not relevant to the person's present ability to care for a child, and placing a child in another home or awarding wardship to the department is in the best interest of the child.

However, a court may not enter a dispositional decree that approves placement of a child in another home or awards wardship to the department if the person has been convicted of a felony listed in IC 31-27-4-13(a) that is not specifically excluded under subdivision (1)(B).

(e) In considering the placement under subsection (d), the court shall consider the following:

- (1) The length of time since the person committed the offense, delinquent act, or act that resulted in the substantiated report of abuse or neglect.
- (2) The severity of the offense, delinquent act, or abuse or neglect.
- (3) Evidence of the person's rehabilitation, including the person's cooperation with a treatment plan, if applicable.

*As added by P.L.70-2004, SEC.22. Amended by P.L.234-2005, SEC.183; P.L.145-2006, SEC.312; P.L.1-2007, SEC.207; P.L.146-2008, SEC.603; P.L.162-2011, SEC.50.*

## **IC 31-34-20-2**

### **Dispositional decree that includes no contact order; protective order depository; confidential form**

Sec. 2. If a court enters a dispositional decree that includes a no contact order under section 1(7) of this chapter:

- (1) the clerk of the court that enters a dispositional decree that includes a no contact order under section 1(7) of this chapter shall comply with IC 5-2-9; and
- (2) the petitioner shall file a confidential form prescribed or approved by the division of state court administration with the clerk.

*As added by P.L.1-1997, SEC.17. Amended by P.L.133-2002, SEC.34.*

**IC 31-34-20-3****Order for participation by parent, guardian, or custodian in program of care, treatment, or rehabilitation for child**

Sec. 3. If the juvenile court determines that a parent, guardian, or custodian should participate in a program of care, treatment, or rehabilitation for the child, the court may order the parent, guardian, or custodian to do the following:

- (1) Obtain assistance in fulfilling the obligations as a parent, guardian, or custodian.
- (2) Provide specified care, treatment, or supervision for the child.
- (3) Work with a person providing care, treatment, or rehabilitation for the child.
- (4) Participate in a program operated by or through the department of correction.

*As added by P.L.1-1997, SEC.17.*

**IC 31-34-20-4****Decrees limiting contact with child; copies to parties and law enforcement agencies**

Sec. 4. (a) The clerk of the court that enters a dispositional decree under this chapter that requires a person to refrain from direct or indirect contact with a child shall provide a copy of the decree to the following:

- (1) Each party.
- (2) The sheriff.
- (3) The law enforcement agency of the municipality, if any, in which the child resides.

(b) Each sheriff and law enforcement agency that receives a decree under subsection (a) shall maintain a copy of the decree in the depository established by IC 5-2-9. The decree may be removed from the depository after the later of the following occurs:

- (1) The lapse of one (1) year after the decree is entered.
- (2) The date specified in the decree if any.

*As added by P.L.1-1997, SEC.17.*

**IC 31-34-20-5****Determination and reporting of legal settlement of child**

Sec. 5. (a) This section applies if the department or a juvenile court:

- (1) places a child;
- (2) changes the placement of a child; or
- (3) reviews the implementation of a decree under IC 31-34-21 of a child placed;

in a state licensed private or public health care facility, child care facility, foster family home, or the home of a relative or other unlicensed caretaker.

(b) The juvenile court shall do the following:

- (1) Make findings of fact concerning the legal settlement of the child.

(2) Apply IC 20-26-11-2(1) through IC 20-26-11-2(8) to determine where the child has legal settlement.

(3) Include the findings of fact required by this section in:

- (A) the dispositional order;
- (B) the modification order; or
- (C) the other decree;

making or changing the placement of the child.

(c) The juvenile court may determine that the legal settlement of the child is in the school corporation in which the child will attend school under IC 20-26-11-8(d).

(d) The juvenile court shall comply with the reporting requirements under IC 20-26-11-9 concerning the legal settlement of the child.

(e) The department or a juvenile court may place a child in a public school, regardless of whether the public school has a waiting list for admissions, if the department or juvenile court determines that the school's program meets the child's educational needs and the school agrees to the placement. A placement under this subsection does not affect the legal settlement of the child.

*As added by P.L.1-1997, SEC.17. Amended by P.L.1-2005, SEC.205; P.L.13-2006, SEC.5; P.L.159-2007, SEC.5; P.L.146-2008, SEC.604.*

#### **IC 31-34-20-6**

##### **Emancipation of child; findings; terms**

Sec. 6. (a) The juvenile court may emancipate a child under section 1(5) of this chapter if the court finds that the child:

- (1) wishes to be free from parental control and protection and no longer needs that control and protection;
- (2) has sufficient money for the child's own support;
- (3) understands the consequences of being free from parental control and protection; and
- (4) has an acceptable plan for independent living.

(b) If the juvenile court partially or completely emancipates the child, the court shall specify the terms of the emancipation, which may include the following:

- (1) Suspension of the parent's or guardian's duty to support the child. In this case the judgment of emancipation supersedes the support order of a court.
- (2) Suspension of the following:
  - (A) The parent's or guardian's right to the control or custody of the child.
  - (B) The parent's right to the child's earnings.
- (3) Empowering the child to consent to marriage.
- (4) Empowering the child to consent to military enlistment.
- (5) Empowering the child to consent to:
  - (A) medical;
  - (B) psychological;
  - (C) psychiatric;
  - (D) educational; or
  - (E) social;

services.

(6) Empowering the child to contract.

(7) Empowering the child to own property.

(c) An emancipated child remains subject to the following:

(1) IC 20-33-2 concerning compulsory school attendance.

(2) The continuing jurisdiction of the court.

*As added by P.L.1-1997, SEC.17. Amended by P.L.1-2005, SEC.206.*

## **IC 31-34-21**

### **Chapter 21. Review of Dispositional Decrees; Formal Review Hearings**

#### **IC 31-34-21-0.1**

##### **Application of certain amendments to chapter**

Sec. 0.1. The addition of section 7.7 of this chapter by P.L.217-2001 applies to all proceedings pending under IC 31-34 on July 1, 2001, and to all proceedings commenced under IC 31-34 after June 30, 2001.

*As added by P.L.220-2011, SEC.515.*

#### **IC 31-34-21-0.2**

##### **First periodic case review; petition to terminate parent-child relationship; conditions; required notice**

Sec. 0.2. At a child's first periodic case review occurring after June 30, 1998, the county office of family and children is required to advise the child's parent, guardian, or custodian in writing that a petition to terminate the parent-child relationship must be filed with respect to the child after June 30, 1999, if the child has been removed from the child's parent and has been under the supervision of a county office of family and children for at least fifteen (15) months of the most recent twenty-two (22) months. However, if a child's parent, guardian, or custodian fails to appear at the first periodic case review occurring after June 30, 1998, the county office of family and children shall make reasonable efforts to send notice of the advisement to the last known address of the parent, guardian, or custodian.

*As added by P.L.220-2011, SEC.516.*

#### **IC 31-34-21-1**

##### **Progress reports; procedure for modification of decree**

Sec. 1. (a) At any time after the date of an original dispositional decree, the juvenile court may order the department to file a report on the progress made in implementing the decree.

(b) The juvenile court shall order the department to file a report every three (3) months after the dispositional decree is entered on the progress made in implementing the decree.

(c) If, after reviewing the report, the juvenile court seeks to consider modification of the dispositional decree, the juvenile court shall proceed under IC 31-34-23.

*As added by P.L.1-1997, SEC.17. Amended by P.L.145-2006, SEC.313; P.L.146-2006, SEC.51.*

#### **IC 31-34-21-2**

##### **Periodic case review**

Sec. 2. (a) The case of each child in need of services under the supervision of the department must be reviewed at least once every six (6) months, or more often, if ordered by the court.

(b) The first of these periodic case reviews must occur:

- (1) at least six (6) months after the date of the child's removal from the child's parent, guardian, or custodian; or
- (2) at least six (6) months after the date of the dispositional decree;

whichever comes first.

(c) Each periodic case review must be conducted by the juvenile court in a formal court hearing.

(d) The court may perform a periodic case review any time after a progress report is filed as described in section 1 of this chapter.

*As added by P.L.1-1997, SEC.17. Amended by P.L.35-1998, SEC.9; P.L.145-2006, SEC.314; P.L.146-2006, SEC.52; P.L.146-2008, SEC.605.*

### **IC 31-34-21-3**

#### **Progress report required before case review**

Sec. 3. Before a case review under section 2 of this chapter, the department shall prepare a report in accordance with IC 31-34-22 on the progress made in implementing the dispositional decree.

*As added by P.L.1-1997, SEC.17. Amended by P.L.145-2006, SEC.315; P.L.146-2008, SEC.606.*

### **IC 31-34-21-4**

#### **Notice of case review; testimony in periodic case review**

Sec. 4. (a) Except as provided in subsection (f), at least seven (7) days before the periodic case review, including a case review that is a permanency hearing under section 7 of this chapter, the department shall provide notice of the review to each of the following:

- (1) The child's parent, guardian, or custodian.
- (2) An attorney who has entered an appearance on behalf of the child's parent, guardian, or custodian.
- (3) A prospective adoptive parent named in a petition for adoption of the child filed under IC 31-19-2 if:
  - (A) each consent to adoption of the child that is required under IC 31-19-9-1 has been executed in the form and manner required by IC 31-19-9 and filed with the county office;
  - (B) the court having jurisdiction in the adoption case has determined under any applicable provision of IC 31-19-9 that consent to adoption is not required from a parent, guardian, or custodian; or
  - (C) a petition to terminate the parent-child relationship between the child and any parent who has not executed a written consent to adoption under IC 31-19-9-2 has been filed under IC 31-35 and is pending.
- (4) The child's foster parent or long term foster parent.
- (5) Any other person who:
  - (A) the department has knowledge is currently providing care for the child; and
  - (B) is not required to be licensed under IC 12-17.2 or IC 31-27 to provide care for the child.

(6) Any other suitable relative or person whom the department knows has had a significant or caretaking relationship to the child.

(b) The department shall present proof of service of the notice required by subsection (a) at the periodic case review.

(c) The department shall provide notices under this section as provided in IC 31-32-1-4.

(d) The court shall provide to a person described in subsection (a) an opportunity to be heard and to make any recommendations to the court in a periodic case review, including a permanency hearing under section 7 of this chapter. The right to be heard and to make recommendations under this subsection includes:

(1) the right of a person described in subsection (a) to submit a written statement to the court that, if served upon all parties to the child in need of services proceeding and the persons described in subsection (a), may be made a part of the court record; and

(2) the right to present oral testimony to the court and cross examine any of the witnesses at the hearing.

(e) Except as provided in subsection (f), this section does not exempt the department from sending a notice of the review to each party to the child in need of services proceeding.

(f) If the parent of an abandoned child does not disclose the parent's name as allowed by IC 31-34-2.5-1(c), the parent is not required to be notified of a proceeding described in subsection (a).

*As added by P.L.1-1997, SEC.17. Amended by P.L.35-1998, SEC.10; P.L.133-2000, SEC.6; P.L.217-2001, SEC.9; P.L.152-2003, SEC.2; P.L.145-2006, SEC.316; P.L.72-2008, SEC.3.*

#### **IC 31-34-21-4.5**

##### **Foster parent's intervention**

Sec. 4.5. (a) Except as provided in subsection (b) a foster parent, long term foster parent, or a person who has been a foster parent may petition the court to request intervention as a party to a proceeding described in this chapter.

(b) A foster parent who has been:

(1) the subject of a substantiated report of child abuse or neglect; or

(2) convicted of a felony listed in IC 31-27-4-13;

may not petition the court to intervene under this section.

(c) A court may grant a petition filed under this section if the court determines that intervention of the petitioner is in the best interests of the child.

*As added by P.L.133-2000, SEC.7. Amended by P.L.152-2003, SEC.3; P.L.145-2006, SEC.317.*

#### **IC 31-34-21-4.6**

##### **"Long term foster parent"**

Sec. 4.6. As used in this section, "long term foster parent" means a foster parent who has provided care and supervision for a child for

at least:

- (1) the twelve (12) most recent months; or
- (2) fifteen (15) months of the most recent twenty-two (22) months.

*As added by P.L.152-2003, SEC.4.*

### **IC 31-34-21-5**

#### **Determination; findings**

Sec. 5. (a) The court shall determine:

- (1) whether the child's case plan, services, and placement meet the special needs and best interests of the child;
- (2) whether the department has made reasonable efforts to provide family services; and
- (3) a projected date for the child's return home, the child's adoption placement, the child's emancipation, or the appointment of a legal guardian for the child under section 7.5(c)(1)(E) of this chapter.

(b) The determination of the court under subsection (a) must be based on findings written after consideration of the following:

- (1) Whether the department, the child, or the child's parent, guardian, or custodian has complied with the child's case plan.
- (2) Written documentation containing descriptions of:
  - (A) the family services that have been offered or provided to the child or the child's parent, guardian, or custodian;
  - (B) the dates during which the family services were offered or provided; and
  - (C) the outcome arising from offering or providing the family services.
- (3) The extent of the efforts made by the department to offer and provide family services.
- (4) The extent to which the parent, guardian, or custodian has enhanced the ability to fulfill parental obligations.
- (5) The extent to which the parent, guardian, or custodian has visited the child, including the reasons for infrequent visitation.
- (6) The extent to which the parent, guardian, or custodian has cooperated with the department.
- (7) The child's recovery from any injuries suffered before removal.
- (8) Whether any additional services are required for the child or the child's parent, guardian, or custodian and, if so, the nature of those services.
- (9) The extent to which the child has been rehabilitated.
- (10) If the child is placed out-of-home, whether the child is in the least restrictive, most family-like setting, and whether the child is placed close to the home of the child's parent, guardian, or custodian.
- (11) The extent to which the causes for the child's out-of-home placement or supervision have been alleviated.
- (12) Whether current placement or supervision by the department should be continued.



(13) The extent to which the child's parent, guardian, or custodian has participated or has been given the opportunity to participate in case planning, periodic case reviews, dispositional reviews, placement of the child, and visitation.

(14) Whether the department has made reasonable efforts to reunify or preserve a child's family unless reasonable efforts are not required under section 5.6 of this chapter.

(15) Whether it is an appropriate time to prepare or implement a permanency plan for the child under section 7.5 of this chapter.

*As added by P.L.1-1997, SEC.17. Amended by P.L.35-1998, SEC.11; P.L.145-2006, SEC.318; P.L.146-2008, SEC.607.*

### **IC 31-34-21-5.5**

#### **Reasonable efforts to preserve and reunify families**

Sec. 5.5. (a) In determining the extent to which reasonable efforts to reunify or preserve a family are appropriate under this chapter, the child's health and safety are of paramount concern.

(b) Except as provided in section 5.6 of this chapter, the department shall make reasonable efforts to preserve and reunify families as follows:

(1) If a child has not been removed from the child's home, to prevent or eliminate the need for removing the child from the child's home.

(2) If a child has been removed from the child's home, to make it possible for the child to return safely to the child's home as soon as possible.

*As added by P.L.35-1998, SEC.12. Amended by P.L.1-1999, SEC.62; P.L.145-2006, SEC.319.*

### **IC 31-34-21-5.6**

#### **Exceptions to requirement to make reasonable efforts to preserve and reunify families**

Sec. 5.6. (a) A court may make a finding described in this section at any phase of a child in need of services proceeding.

(b) Reasonable efforts to reunify a child with the child's parent, guardian, or custodian or preserve a child's family as described in section 5.5 of this chapter are not required if the court finds any of the following:

(1) A parent, guardian, or custodian of a child who is a child in need of services has been convicted of:

(A) an offense described in IC 31-35-3-4(1)(B) or IC 31-35-3-4(1)(D) through IC 31-35-3-4(1)(J) against a victim who is:

(i) a child described in IC 31-35-3-4(2); or

(ii) a parent of the child; or

(B) a comparable offense as described in clause (A) in any other state, territory, or country by a court of competent jurisdiction.

(2) A parent, guardian, or custodian of a child who is a child in

need of services:

(A) has been convicted of:

- (i) the murder (IC 35-42-1-1) or voluntary manslaughter (IC 35-42-1-3) of a victim who is a child described in IC 31-35-3-4(2)(B) or a parent of the child; or
- (ii) a comparable offense described in item (i) in any other state, territory, or country; or

(B) has been convicted of:

- (i) aiding, inducing, or causing another person;
- (ii) attempting; or
- (iii) conspiring with another person;

to commit an offense described in clause (A).

(3) A parent, guardian, or custodian of a child who is a child in need of services has been convicted of:

- (A) battery (IC 35-42-2-1(a)(5)) as a Class A felony;
- (B) battery (IC 35-42-2-1 (a)(4)) as a Class B felony;
- (C) battery (IC 35-42-2-1(a)(3)) as a Class C felony;
- (D) aggravated battery (IC 35-42-2-1.5);
- (E) criminal recklessness (IC 35-42-2-2) as a Class C felony;
- (F) neglect of a dependent (IC 35-46-1-4) as a Class B felony; or
- (G) a comparable offense described in clauses (A) through (F) in another state, territory, or country;

against a child described in IC 31-35-3-4(2)(B).

(4) The parental rights of a parent with respect to a biological or adoptive sibling of a child who is a child in need of services have been involuntarily terminated by a court under:

- (A) IC 31-35-2 (involuntary termination involving a delinquent child or a child in need of services);
- (B) IC 31-35-3 (involuntary termination involving an individual convicted of a criminal offense); or
- (C) any comparable law described in clause (A) or (B) in any other state, territory, or country.

(5) The child is an abandoned infant, provided that the court:

- (A) has appointed a guardian ad litem or court appointed special advocate for the child; and
- (B) after receiving a written report and recommendation from the guardian ad litem or court appointed special advocate, and after a hearing, finds that reasonable efforts to locate the child's parents or reunify the child's family would not be in the best interests of the child.

*As added by P.L.35-1998, SEC.13. Amended by P.L.197-1999, SEC.5; P.L.133-2000, SEC.8; P.L.222-2001, SEC.2; P.L.217-2001, SEC.10; P.L.1-2003, SEC.78.*

### **IC 31-34-21-5.7**

#### **Permanency plan; requirement; approval; reports and orders not required**

Sec. 5.7. (a) This section applies at any phase of a child in need of services proceeding whenever a court enters a finding that

reasonable efforts to reunify or preserve a child's family are not required under section 5.6 of this chapter.

(b) The department shall do the following:

- (1) Complete a permanency plan for the child that complies with the requirements of section 7.5 of this chapter.
- (2) Seek court approval of the permanency plan under section 7 of this chapter.

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

- (1) A predispositional report to consider participation of a child's parent, guardian, or custodian in any program of care, treatment, or rehabilitation of the child.
- (2) A dispositional decree under IC 31-34-19-6 and findings and conclusions under IC 31-34-19-10 that concern:
  - (A) participation of the child's parent, guardian, or custodian in a program for future care or treatment of the child; or
  - (B) reasonable efforts to prevent the child's removal from the child's home or to reunite the child with the child's parent, guardian, or custodian.

*As added by P.L.35-1998, SEC.14. Amended by P.L.145-2006, SEC.320.*

#### **IC 31-34-21-5.8**

##### **Certain reasonable efforts required if preservation and reunification inconsistent with permanency plan; progress reports, case reviews, and postdispositional hearings not required**

Sec. 5.8. (a) This section applies only if a court has approved a permanency plan for a child under section 7(b)(5) of this chapter.

(b) If the continuation of reasonable efforts to preserve and reunify a child in need of services with the child's family is inconsistent with the child's permanency plan, the department shall make reasonable efforts to:

- (1) with court approval place the child in an out-of-home placement in accordance with the permanency plan; and
- (2) complete whatever steps are necessary to finalize the permanent placement of the child in a timely manner.

(c) This subsection applies whenever the child's approved permanency plan under section 7 of this chapter is placement of the child for adoption or another planned, permanent living arrangement. Periodic progress reports, case reviews, and postdispositional hearings to determine whether or the extent to which the following have occurred are not required:

- (1) Whether reasonable efforts have been made to eliminate the need for removal of the child from the child's home or to make it possible for the child to safely return to the child's home.
- (2) Whether the child is placed in close proximity to the home of the child's parent, guardian, or custodian.

*As added by P.L.35-1998, SEC.15. Amended by P.L.145-2006,*

*SEC.321; P.L.162-2011, SEC.51.*

**IC 31-34-21-6**

**Repealed**

*(Repealed by P.L.35-1998, SEC.28.)*

**IC 31-34-21-7**

**Permanency hearing**

Sec. 7. (a) The court shall hold a permanency hearing:

- (1) not more than thirty (30) days after a court finds that reasonable efforts to reunify or preserve a child's family are not required as described in section 5.6 of this chapter;
- (2) every twelve (12) months after:
  - (A) the date of the original dispositional decree; or
  - (B) a child in need of services was removed from the child's parent, guardian, or custodian;whichever comes first; or
- (3) more often if ordered by the juvenile court.

(b) The court shall:

- (1) make the determination and findings required by section 5 of this chapter;
- (2) consider the question of continued jurisdiction and whether the dispositional decree should be modified;
- (3) consider recommendations of persons listed under section 4 of this chapter, before approving a permanency plan under subdivision (5);
- (4) consult with the child in person, or through an interview with or written statement or report submitted by:
  - (A) a guardian ad litem or court appointed special advocate for the child;
  - (B) a case manager; or
  - (C) the person with whom the child is living and who has primary responsibility for the care and supervision of the child;

in an age appropriate manner as determined by the court, regarding the proposed permanency plan;

- (5) consider and approve a permanency plan for the child that complies with the requirements set forth in section 7.5 of this chapter;
- (6) determine whether an existing permanency plan must be modified; and
- (7) examine procedural safeguards used by the department to protect parental rights.

(c) If the child is at least sixteen (16) years of age and the proposed permanency plan provides for the transition of the child from foster care to independent living, the court shall:

- (1) require the department to provide notice of the permanency hearing to the child, in accordance with section 4(a) of this chapter; and
- (2) provide to the child an opportunity to be heard and to make

recommendations to the court, in accordance with section 4(d) of this chapter.

(d) There is a rebuttable presumption that jurisdiction over the child in a child in need of services proceeding continues for not longer than twelve (12) months after the date of the original dispositional decree or twelve (12) months after the child in need of services was removed from the child's parent, guardian, or custodian, whichever occurs first. The state may rebut the presumption and show that jurisdiction should continue by proving that the objectives of the dispositional decree have not been accomplished, that a continuation of the decree with or without any modifications is necessary, and that it is in the child's best interests for the court to maintain its jurisdiction over the child. If the department does not sustain its burden for continued jurisdiction, the court shall:

- (1) direct the department to establish a permanency plan within thirty (30) days; or
- (2) discharge the child and the child's parent, guardian, or custodian.

The court may retain jurisdiction to the extent necessary to carry out any orders under subdivision (1).

*As added by P.L.1-1997, SEC.17. Amended by P.L.35-1998, SEC.16; P.L.1-1999, SEC.63; P.L.14-2000, SEC.64; P.L.145-2006, SEC.322; P.L.138-2007, SEC.74; P.L.72-2008, SEC.4.*

### **IC 31-34-21-7.3**

#### **Internet posting of nonidentifying information**

Sec. 7.3. (a) This section applies after:

- (1) a court authorizes the filing of a petition to terminate the parent-child relationship; or
- (2) a petition to terminate the parent-child relationship is filed; in relation to a child in need of services.

(b) The department shall post the following nonidentifying information on the Internet to facilitate a potential adoptive placement of the child:

- (1) The child's age, gender, and summary of the child's educational, social, and medical background, including known disabilities.
- (2) The reason the child was removed from the child's home.
- (3) Whether a person has expressed an interest in adopting the child.
- (4) The name, address, and telephone number of a contact person from:
  - (A) the department;
  - (B) the appropriate county office; or
  - (C) licensed child placing agency;

where a person who may be interested in adopting the child may obtain further information about adopting the child.

- (5) Whether a petition to terminate the rights of the child's parents has been authorized or filed, and whether the rights of the child's parents have been terminated.

- (6) An address and telephone number of:
  - (A) the department;
  - (B) the appropriate county office; or
  - (C) licensed child placing agency;where a person who may be interested in adopting the child may obtain further information about adopting the child.
- (c) The information posted under subsection (b) may not identify the name of any of the following persons:
  - (1) The child.
  - (2) The child's biological or adoptive parents.
  - (3) A sibling of the child.
  - (4) A caretaker of the child.
- (d) The department shall update any relevant information under this section after either of the following:
  - (1) Each of the child's periodic reviews that occur after the information under this section is required to be posted.
  - (2) The rights of the child's parents have been terminated.
- (e) The department shall remove the information required under subsection (b) from the Internet whenever the child is reunited with the child's family or an adoption of the child is filed under IC 31-19-2.
- (f) Upon request, the department shall inform the person making the request of the address of the Internet Web site containing the information described in this section.

*As added by P.L.35-1998, SEC.17. Amended by P.L.145-2006, SEC.323.*

#### **IC 31-34-21-7.5**

##### **Permanency plans prohibited if household contains certain individuals; exceptions**

Sec. 7.5. (a) Except as provided in subsection (d), the juvenile court may not approve a permanency plan under subsection (c)(1)(D), (c)(1)(E), or (c)(1)(F) if a person who is currently residing with a person described in subsection (c)(1)(D) or (c)(1)(E) or in a residence in which the child would be placed under subsection (c)(1)(F) has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 31-27-4-13 if committed by an adult, or has a conviction for a felony listed in IC 31-27-4-13.

(b) Before requesting juvenile court approval of a permanency plan, the department shall conduct a criminal history check (as defined in IC 31-9-2-22.5) to determine if a person described in subsection (a) has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 31-27-4-13 if committed by an adult, or has a conviction for a felony listed in IC 31-27-4-13. However, the department is not required to conduct a criminal history check under this section if criminal history information under IC 31-34-4-2, IC 31-34-18-6.1, or IC 31-34-20-1.5 establishes whether a person described in subsection (a) has committed an act

resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 31-27-4-13 if committed by an adult, or has a conviction for a felony listed in IC 31-27-4-13.

(c) A permanency plan under this chapter includes the following:

(1) The intended permanent or long term arrangements for care and custody of the child that may include any of the following arrangements that the department or the court considers most appropriate and consistent with the best interests of the child:

(A) Return to or continuation of existing custodial care within the home of the child's parent, guardian, or custodian or placement of the child with the child's noncustodial parent.

(B) Initiation of a proceeding for termination of the parent-child relationship under IC 31-35.

(C) Placement of the child for adoption.

(D) Placement of the child with a responsible person, including:

(i) an adult sibling;

(ii) a grandparent;

(iii) an aunt;

(iv) an uncle; or

(v) another relative;

who is able and willing to act as the child's permanent custodian and carry out the responsibilities required by the permanency plan.

(E) Appointment of a legal guardian. The legal guardian appointed under this section is a caretaker in a judicially created relationship between the child and caretaker that is intended to be permanent and self-sustaining as evidenced by the transfer to the caretaker of the following parental rights with respect to the child:

(i) Care, custody, and control of the child.

(ii) Decision making concerning the child's upbringing.

(F) Placement of the child in another planned, permanent living arrangement.

(2) A time schedule for implementing the applicable provisions of the permanency plan.

(3) Provisions for temporary or interim arrangements for care and custody of the child, pending completion of implementation of the permanency plan.

(4) Other items required to be included in a case plan under IC 31-34-15 or federal law, consistent with the permanent or long term arrangements described by the permanency plan.

(d) A juvenile court may approve a permanency plan if:

(1) a person described in subsection (a) has:

(A) committed an act resulting in a substantiated report of child abuse or neglect; or

(B) been convicted or had a juvenile adjudication for:

(i) reckless homicide (IC 35-42-1-5);

- (ii) battery (IC 35-42-2-1) as a Class C or D felony;
- (iii) criminal confinement (IC 35-42-3-3) as a Class C or D felony;
- (iv) arson (IC 35-43-1-1) as a Class C or D felony;
- (v) a felony involving a weapon under IC 35-47 or IC 35-47.5 as a Class C or D felony;
- (vi) a felony relating to controlled substances under IC 35-48-4 as a Class C or D felony; or
- (vii) a felony that is substantially equivalent to a felony listed in items (i) through (vi) for which the conviction was entered in another state; and

(2) the court makes a written finding that the person's commission of the offense, delinquent act, or act of abuse or neglect described in subdivision (1) is not relevant to the person's present ability to care for a child, and that approval of the permanency plan is in the best interest of the child.

However, a court may not approve a permanency plan if the person has been convicted of a felony listed in IC 31-27-4-13 that is not specifically excluded under subdivision (1)(B), or has a juvenile adjudication for an act that would be a felony listed in IC 31-27-4-13 if committed by an adult that is not specifically excluded under subdivision (1)(B).

(e) In making its written finding under subsection (d), the court shall consider the following:

- (1) The length of time since the person committed the offense, delinquent act, or act that resulted in the substantiated report of abuse or neglect.
- (2) The severity of the offense, delinquent act, or abuse or neglect.
- (3) Evidence of the person's rehabilitation, including the person's cooperation with a treatment plan, if applicable.

*As added by P.L.35-1998, SEC.18. Amended by P.L.70-2004, SEC.23; P.L.234-2005, SEC.184; P.L.145-2006, SEC.324; P.L.146-2008, SEC.608.*

### **IC 31-34-21-7.7**

#### **Permanency plan; guardianship; requirements and terms and conditions in order; jurisdiction**

Sec. 7.7. (a) If the juvenile court approves a permanency plan under section 7 of this chapter that provides for the appointment of a guardian for a child, the juvenile court may appoint a guardian of the person and administer a guardianship for the child under IC 29-3.

(b) If a guardianship of the person proceeding for the child is pending in a probate court, the probate court shall transfer the proceeding to the juvenile court.

(c) In creating a guardianship of a minor, a probate or juvenile court may include in an order the requirements and terms and conditions described in IC 29-3-8-9(a).

(d) If the juvenile court closes a child in need of services case after creating a guardianship, the juvenile court order creating the



guardianship survives the closure of the child in need of services case.

(e) If the juvenile court closes the child in need of services case after creating a guardianship, the probate court may assume or reassume jurisdiction of the guardianship and take further action as necessary.

*As added by P.L.217-2001, SEC.11. Amended by P.L.162-2011, SEC.52.*

#### **IC 31-34-21-8**

##### **Progress report required before formal hearing**

Sec. 8. Before a hearing under section 7 of this chapter, the department shall prepare a report in accordance with IC 31-34-22 on the progress made in implementing the dispositional decree.

*As added by P.L.1-1997, SEC.17. Amended by P.L.145-2006, SEC.325; P.L.146-2008, SEC.609.*

#### **IC 31-34-21-9**

##### **Foster care review board**

Sec. 9. (a) The juvenile court may assign cases to a foster care review board established by the court to assist the court in reviewing foster care placements.

(b) The foster care review board shall review a foster care placement at the juvenile court's request and shall file a report, including findings and recommendations with the court.

(c) If the juvenile court believes the contents of a confidential report or document would benefit the review board, the court may provide the review board with an order authorizing disclosure of the document to the review board. The review board may not disclose the contents of a confidential report or document to any person who is not allowed disclosure by the court or by statute.

*As added by P.L.1-1997, SEC.17.*

#### **IC 31-34-21-10**

##### **Review of child's legal settlement**

Sec. 10. (a) This section applies when a juvenile court reviews the implementation of a decree under this chapter or any other law concerning a child placed in a state licensed private or public health care facility, child care facility, or foster family home.

(b) The juvenile court shall review the court's findings under IC 31-34-20-5 and determine whether circumstances have changed the legal settlement of the child.

(c) If the child's legal settlement has changed, the court shall issue an order that modifies the court's findings of fact concerning the legal settlement of the child.

(d) If the court has not previously made findings of fact concerning legal settlement as provided in IC 31-34-20-5, the court shall make the appropriate findings in its order entered under this chapter.

(e) The juvenile court shall comply with the reporting

requirements under IC 20-26-11-9 concerning the legal settlement of the child.

*As added by P.L.1-1997, SEC.17. Amended by P.L.1-2005, SEC.207.*

### **IC 31-34-21-11**

#### **Discharge of child**

Sec. 11. When the juvenile court finds that the objectives of the dispositional decree have been met, the court shall discharge the child and the child's parent, guardian, or custodian.

*As added by P.L.1-1997, SEC.17.*

## **IC 31-34-22**

### **Chapter 22. Reports Required for Reviewing Dispositional Decrees**

#### **IC 31-34-22-1**

##### **Progress report; modification report**

Sec. 1. (a) Before a case review under IC 31-34-21-2 or hearing under IC 31-34-21-7, the department shall prepare a report on the progress made in implementing the dispositional decree, including the progress made in rehabilitating the child, preventing placement out-of-home, or reuniting the family.

(b) Before preparing the report required by subsection (a), the department shall consult a foster parent of the child about the child's progress made while in the foster parent's care.

(c) If modification of the dispositional decree is recommended, the department shall prepare a modification report containing the information required by IC 31-34-18 and request a formal court hearing.

*As added by P.L.1-1997, SEC.17. Amended by P.L.138-2007, SEC.75; P.L.146-2008, SEC.610.*

#### **IC 31-34-22-2**

##### **Providing copies of reports and factual summaries of reports**

Sec. 2. (a) Except as provided in subsection (b), a report prepared by the state:

- (1) for the juvenile court's review of the court's dispositional decree; or
- (2) prepared for use at a periodic case review under IC 31-34-21-2 or hearing under IC 31-34-21-7;

shall be made available to the child, and the child's parent, foster parent, guardian, guardian ad litem, court appointed special advocate, custodian, or any other person who is entitled to receive notice of the periodic case review or permanency hearing under IC 31-34-21-4 within a reasonable time after the report's presentation to the court or before the hearing.

(b) If the court determines on the record that the report contains information that should not be released to any person entitled to receive a report under subsection (a), the court is not required to make the report available to the person as required in subsection (a). However, the court shall provide a copy of the report to the following:

- (1) Each attorney or guardian ad litem representing the child.
- (2) Each attorney representing the child's parent, guardian, or custodian.
- (3) Each court appointed special advocate.

(c) The court may also provide a factual summary of the report to the child or the child's parent, foster parent, guardian, or custodian.  
*As added by P.L.1-1997, SEC.17. Amended by P.L.129-2005, SEC.8; P.L.146-2006, SEC.53; P.L.138-2007, SEC.76.*

### **IC 31-34-22-3**

#### **Admissibility of reports and factual summaries of reports**

Sec. 3. (a) Any report may be admitted into evidence to the extent that the report contains evidence of probative value even if the evidence would otherwise be excluded.

(b) If a report contains information that should not be released to the child or the child's parent, guardian, custodian, or any other person who is entitled to receive a report under section 2 of this chapter, a factual summary of the report may be admitted.

(c) The following shall be given a fair opportunity to controvert any part of the report admitted into evidence:

- (1) The child.
- (2) The child's parent, guardian, or custodian.
- (3) The person representing the interests of the state.
- (4) Any other person who is entitled to receive a report under section 2 of this chapter.

*As added by P.L.1-1997, SEC.17. Amended by P.L.138-2007, SEC.77.*

## **IC 31-34-23**

### **Chapter 23. Modification of Dispositional Decrees**

#### **IC 31-34-23-1**

##### **Motion for modification**

Sec. 1. While the juvenile court retains jurisdiction under IC 31-30-2, the juvenile court may modify any dispositional decree:

- (1) upon the juvenile court's own motion;
- (2) upon the motion of:
  - (A) the child;
  - (B) the child's:
    - (i) parent;
    - (ii) guardian;
    - (iii) custodian;
    - (iv) court appointed special advocate; or
    - (v) guardian ad litem; or
  - (C) the attorney for the department; or
- (3) upon the motion of any person providing services to the child or to the child's parent, guardian, or custodian under a decree of the court.

*As added by P.L.1-1997, SEC.17. Amended by P.L.129-2005, SEC.9; P.L.146-2008, SEC.611.*

#### **IC 31-34-23-2**

##### **Repealed**

*(Repealed by P.L.146-2008, SEC.804.)*

#### **IC 31-34-23-3**

##### **Notice and hearing requirements; temporary order for emergency change in child's residence**

Sec. 3. (a) If the motion requests an emergency change in the child's residence, the court may issue a temporary order. However, the department shall then give notice to the persons affected and the juvenile court shall hold a hearing on the question if requested.

(b) If the motion requests any other modification, the department shall give notice to the persons affected, and the juvenile court shall hold a hearing on the question.

*As added by P.L.1-1997, SEC.17. Amended by P.L.146-2008, SEC.612.*

#### **IC 31-34-23-4**

##### **Modification report**

Sec. 4. If a hearing is required, IC 31-34-18 and IC 31-34-19 apply to the preparation and use of a modification report. The report shall be prepared if the department or any person other than the child or the child's parent, guardian, guardian ad litem, court appointed special advocate, or custodian is requesting the modification. Notice of any hearing under this chapter shall be given in accordance with IC 31-34-19-1.3.

*As added by P.L.1-1997, SEC.17. Amended by P.L.129-2005,*

*SEC.10; P.L.138-2007, SEC.78; P.L.146-2008, SEC.613.*

**IC 31-34-24**

**Repealed**

*(Repealed by P.L.146-2008, SEC.805.)*

## **IC 31-34-25**

### **Chapter 25. No Contact Orders**

#### **IC 31-34-25-1**

##### **Eligible to file petition for no contact order**

Sec. 1. Any of the following may sign and file a petition for the juvenile court to require a person to refrain from direct or indirect contact with a child:

(1) The attorney for the department.

(2) The guardian ad litem or court appointed special advocate.

*As added by P.L.133-2002, SEC.35. Amended by P.L.146-2008, SEC.614.*

#### **IC 31-34-25-2**

##### **Verification**

Sec. 2. A petition filed under section 1 of this chapter must be verified.

*As added by P.L.133-2002, SEC.35.*

#### **IC 31-34-25-3**

##### **Petition requirements**

Sec. 3. A petition seeking to restrain a person from contact must be entitled "In the Matter of a No Contact Order for \_\_\_\_\_".

The petition must allege the following:

(1) That the respondent is likely to have direct or indirect contact with the child in the absence of an order under this chapter.

(2) That the child has been adjudicated a child in need of services.

(3) That the best interests of the child will be served if the person refrains from direct or indirect contact with the child.

*As added by P.L.133-2002, SEC.35.*

#### **IC 31-34-25-4**

##### **Hearing; findings**

Sec. 4. (a) The court may hold a hearing on a petition concurrently with a dispositional hearing or with a hearing to modify a dispositional decree.

(b) If the court finds that the allegations under section 3 of this chapter are true, the court shall enter a decree.

*As added by P.L.133-2002, SEC.35.*

#### **IC 31-34-25-5**

##### **Protective order depository**

Sec. 5. If a court enters a decree that requires a person to refrain from direct or indirect contact with a child, the clerk of the court shall comply with IC 5-2-9.

*As added by P.L.133-2002, SEC.35.*