

**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**

**Repealed**

*(As added by P.L.220-2011, SEC.512. Repealed by P.L.63-2012, SEC.35.)*

**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 (before its repeal);
  - (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 (before its repeal);
  - (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:
  - (A) committed the sex offense under subdivision (1) and the sex offense resulted in a conviction or a judgment under IC 31-34-11-2; or
  - (B) has been charged with a sex offense listed in subdivision (1) and is awaiting trial;
- (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; P.L.158-2013, SEC.319; P.L.214-2013, SEC.26; P.L.168-2014, SEC.43.*

#### **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;
  - (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 local office.

(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; P.L.128-2012, SEC.157.*