IC 31

TITLE 31. FAMILY LAW AND JUVENILE LAW

IC 31-1

ARTICLE 1. REPEALED

(Repealed by P.L.1-1997, SEC.157.)

IC 31-1.5

ARTICLE 1.5. REPEALED

(Repealed by P.L.1-1997, SEC.157.)

IC 31-2

ARTICLE 2. REPEALED

(Repealed by P.L.1-1997, SEC.157.)

IC 31-3

ARTICLE 3. REPEALED

(Repealed by P.L.1-1997, SEC.157.)

IC 31-4

ARTICLE 4. REPEALED

(Repealed by Acts 1978, P.L.136, SEC.57.)

IC 31-5

ARTICLE 5. REPEALED

(Repealed by Acts 1978, P.L.136, SEC.57.)

IC 31-5.5

ARTICLE 5.5. REPEALED

(Repealed by Acts 1979, P.L.276, SEC.60.)

IC 31-6

ARTICLE 6. REPEALED

(Repealed by P.L.1-1997, SEC.157.)

IC 31-7

ARTICLE 7. REPEALED

(Repealed by P.L.1-1997, SEC.157.)

IC 31-8

ARTICLE 8. REPEALED

(Repealed by P.L.1-1997, SEC.157.)

IC 31-9

ARTICLE 9. DEFINITIONS

IC 31-9-1

Chapter 1. General Provisions

IC 31-9-1-1

Applicability of definitions

Sec. 1. Except as otherwise provided, the definitions in this article apply throughout this title.

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

IC 31-9-1-2

Inapplicability of definitions

Sec. 2. Except as otherwise provided, the definitions in this article do not apply to the following:

(1) IC 31-11-3.
(2) IC 31-21 (or IC 31-17-3 before its repeal).
(3) IC 31-18.
(4) IC 31-19-29.
(5) IC 31-37-23.

As added by P.L.1-1997, SEC.1. Amended by P.L.138-2007, SEC.5.

IC 31-9-2
Chapter 2. Definitions

IC 31-9-2-0.2
Application of certain amendments to prior law

Sec. 0.2. The amendments made to IC 31-1-11.5-11(a) (before its repeal, now codified at section 46 of this chapter) by P.L.170-1988 do not apply to actions filed under IC 31-1-11.5-3 (before its repeal, now codified at IC 31-15-2-2, IC 31-15-2-3, and IC 31-16-2-2) that are filed before July 1, 1988.

As added by P.L.220-2011, SEC.487.

IC 31-9-2-0.3
"Abandoned"

Sec. 0.3. "Abandoned", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-2.

As added by P.L.138-2007, SEC.6.

IC 31-9-2-0.4
"Abandoned child"

Sec. 0.4. "Abandoned child", for purposes of IC 31-34-21-4 and IC 31-35-2-6.5, means a child who is, or who appears to be, not more than thirty (30) days of age and whose parent:

(1) has knowingly or intentionally left the child with an emergency medical services provider; and

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

As added by P.L.1-2009, SEC.154. Amended by P.L.128-2012, SEC.21.

IC 31-9-2-0.5
"Abandoned infant"

Sec. 0.5. "Abandoned infant", for purposes of IC 31-34-21-5.6, means:

(1) a child who is less than twelve (12) months of age and whose parent, guardian, or custodian has knowingly or intentionally left the child in:

(A) an environment that endangers the child's life or health; or

(B) a hospital or medical facility;

and has no reasonable plan to assume the care, custody, and control of the child; or

(2) a child who is, or who appears to be, not more than thirty (30) days of age and whose parent:

(A) has knowingly or intentionally left the child with an emergency medical services provider; and

(B) did not express an intent to return for the child.

As added by P.L.35-1998, SEC.2. Amended by P.L.133-2000, SEC.1; P.L.217-2001, SEC.2; P.L.1-2009, SEC.155; P.L.128-2012, SEC.22.

IC 31-9-2-0.7
"Account"

Sec. 0.7. (a) "Account", for purposes of IC 31-25-4, has the meaning set forth in IC 31-25-4-3.

(b) "Account", for purposes of IC 31-26-1, has the meaning set forth in IC 31-26-1-1.

As added by P.L.145-2006, SEC.170.

IC 31-9-2-0.8
"Active duty"

Sec. 0.8. "Active duty", for purposes of IC 31-14-13-6.3 and IC 31-17-2-21.3, means full-time service in:

(1) the armed forces of the United States (as defined in IC 5-9-4-3); or

(2) the National Guard (as defined in IC 5-9-4-4);

for a period that exceeds thirty (30) consecutive days in a calendar year.

As added by P.L.80-2010, SEC.21.

IC 31-9-2-1
"Actual notice"

Sec. 1. "Actual notice", for purposes of IC 31-19-3, means written notice that is actually received by the putative father.

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

IC 31-9-2-2
"Adoptee"

Sec. 2. "Adoptee", for purposes of IC 31-19-17 through IC 31-19-25.5, means a person who has been legally adopted.

As added by P.L.1-1997, SEC.1. Amended by P.L.191-2011, SEC.1.

IC 31-9-2-3
"Adoption"

Sec. 3. "Adoption", for purposes of IC 31-19-17 through IC 31-19-25.5, means the judicial act of creating the relationship of parent and child where the relationship did not exist previously.

As added by P.L.1-1997, SEC.1. Amended by P.L.191-2011, SEC.2.

IC 31-9-2-4
"Adoption assistance state"

Sec. 4. "Adoption assistance state", for purposes of the Interstate Compact on Adoption Assistance under IC 31-19-29, has the meaning set forth in IC 31-19-29-2.

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

IC 31-9-2-5
"Adoption history"

Sec. 5. "Adoption history", for purposes of IC 31-19-17 through IC 31-19-24, means:

(1) identifying information (as defined in section 54 of this

chapter);
(2) the medical history (as defined in section 78 of this chapter); and
(3) nonidentifying information (as defined in section 84 of this chapter).
As added by P.L.1-1997, SEC.1.

IC 31-9-2-5.5
"Adoption subsidy"
Sec. 5.5. "Adoption subsidy", for purposes of IC 31-19-26.5, has the meaning set forth in IC 31-19-26.5-1.
As added by P.L.146-2008, SEC.532.

IC 31-9-2-6
"Adoptive parent"
Sec. 6. "Adoptive parent", for purposes of IC 31-19-11 and IC 31-19-17 through IC 31-19-25.5, means an adult who has become a parent of a child through adoption.
As added by P.L.1-1997, SEC.1. Amended by P.L.129-2005, SEC.1; P.L.191-2011, SEC.3.

IC 31-9-2-7
"Adult"
Sec. 7. (a) "Adult", for purposes of IC 31-19-17 through IC 31-19-25.5, means a person who is at least twenty-one (21) years of age.
(b) "Adult", for purposes of the juvenile law, means a person other than a child.
As added by P.L.1-1997, SEC.1. Amended by P.L.191-2011, SEC.4.

IC 31-9-2-8
"Advisory board"
Sec. 8. "Advisory board", for purposes of IC 31-31-9, refers to the juvenile detention center advisory board described in IC 31-31-9.
As added by P.L.1-1997, SEC.1.

IC 31-9-2-9
"Alleged father"
Sec. 9. "Alleged father", for purposes of IC 31-14, means any man claiming to be or charged with being a child's biological father.
As added by P.L.1-1997, SEC.1.

IC 31-9-2-9.3
"Applicant"
Sec. 9.3. (a) "Applicant", for purposes of IC 31-25-3, IC 31-25-4, and IC 31-26-3.5, means a person who has applied for assistance for the applicant or another person.
(b) "Applicant", for purposes of IC 31-27, means a person who seeks a license to operate a child caring institution, foster family home, group home, or child placing agency.

As added by P.L.145-2006, SEC.171. Amended by P.L.146-2008, SEC.533; P.L.128-2012, SEC.23.

IC 31-9-2-9.5
"Appropriate public authorities"

Sec. 9.5. "Appropriate public authorities", for purposes of IC 31-28-4, has the meaning set forth in IC 31-28-4-3.

As added by P.L.145-2006, SEC.172.

IC 31-9-2-9.6
"Assessment"

Sec. 9.6. "Assessment", for purposes of IC 31-25 and IC 31-33, means an initial and ongoing investigation or evaluation that includes:

(1) a review and determination of the safety issues that affect a child and:
  (A) a child's parents, guardians, or custodians; or
  (B) another individual residing in the residence where the child resides or is likely to reside;
(2) an identification of the underlying causes of the safety issues described in subdivision (1);
(3) a determination whether child abuse, neglect, or maltreatment occurred; and
(4) a determination of the needs of a child's family in order for the child to:
  (A) remain in the home safely;
  (B) be returned to the home safely; or
  (C) be placed in an alternative living arrangement.

As added by P.L.131-2009, SEC.6.

IC 31-9-2-9.7
"Assistance"

Sec. 9.7. "Assistance", for purposes of the following statutes, means money or services regardless of the source, paid or furnished under any of the following statutes:

(1) IC 31-25-3.
(2) IC 31-25-4.
(3) IC 31-26-3.5.

As added by P.L.145-2006, SEC.173. Amended by P.L.146-2008, SEC.534; P.L.128-2012, SEC.24.

IC 31-9-2-9.9
"At-risk child" or "at-risk children"

Sec. 9.9. "At-risk child" or "at-risk children", for purposes of IC 31-32-3, means a child or children who:

(1) are at risk of becoming involved in a juvenile proceeding;
(2) are at risk of being suspended or expelled from school;
(3) are at risk of dropping out of school;
(4) were previously children in need of services and who are in need of ongoing supervision and assistance; or

(5) have been victims of domestic violence.
As added by P.L.183-2011, SEC.1.

IC 31-9-2-10
"Birth parent"

Sec. 10. "Birth parent", for purposes of IC 31-19-17 through IC 31-19-25.5, means:

(1) the woman who is legally presumed under Indiana law to be the mother of biological origin of an adoptee;

(2) the man who is legally presumed under Indiana law to be the father of biological origin of an adoptee; or

(3) a man who establishes paternity of a child born out of wedlock:

(A) in a court proceeding; or

(B) by executing a paternity affidavit under IC 16-37-2-2.1.

As added by P.L.1-1997, SEC.1. Amended by P.L.197-1997, SEC.1; P.L.191-2011, SEC.5.

IC 31-9-2-10.3
"Blind"

Sec. 10.3. "Blind", for purposes of IC 31-25-3, IC 31-25-4, IC 31-28-1, IC 31-28-2, and IC 31-28-3, means an individual who has vision in the better eye with correcting glasses of 20/200 or less, or a disqualifying visual field defect as determined upon examination by an ophthalmologist or optometrist who has been designated to make such examinations by the local office and approved by the department.
As added by P.L.145-2006, SEC.174. Amended by P.L.146-2008, SEC.535; P.L.128-2012, SEC.25.

IC 31-9-2-10.6
"Board"

Sec. 10.6. (a) "Board", for purposes of IC 31-25-4, has the meaning set forth in IC 31-25-4-34(a).

(b) "Board", for purposes of IC 31-26-4, has the meaning set forth in IC 31-26-4-2.
As added by P.L.145-2006, SEC.175.

IC 31-9-2-10.8
"Bureau"

Sec. 10.8. "Bureau", for purposes of IC 31-16-15 and IC 31-25 has the meaning set forth in IC 31-25-4-1.
As added by P.L.145-2006, SEC.176. Amended by P.L.103-2007, SEC.10.

IC 31-9-2-10.9
Repealed

(Repealed by P.L.183-2011, SEC.10.)

IC 31-9-2-11

"Caseworker"

Sec. 11. "Caseworker", for purposes of the juvenile law, means an employee of the department of child services who is classified as a family case manager.

As added by P.L.1-1997, SEC.1. Amended by P.L.146-2006, SEC.11.

IC 31-9-2-11.1

"Case"

Sec. 11.1. "Case", for purposes of IC 31-33-18-1.5, has the meaning set forth in IC 31-33-18-1.5(d).

As added by P.L.183-2011, SEC.2.

IC 31-9-2-12

"Center"

Sec. 12. "Center", for purposes of IC 31-31-9, means any secure juvenile detention center that operates in a county containing a consolidated city except for a center operated by the federal government. The term includes a juvenile detention facility.

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

IC 31-9-2-13

"Child"

Sec. 13. (a) "Child", for purposes of IC 31-15, IC 31-16 (excluding IC 31-16-12.5), and IC 31-17, means a child or children of both parties to the marriage. The term includes the following:

(1) Children born out of wedlock to the parties.

(2) Children born or adopted during the marriage of the parties.

(b) "Child", for purposes of the Uniform Interstate Family Support Act under IC 31-18, has the meaning set forth in IC 31-18-1-2.

(c) "Child", for purposes of IC 31-19-5, includes an unborn child.

(d) Except as otherwise provided in this section, "child", for purposes of the juvenile law and IC 31-27, means:

(1) a person who is less than eighteen (18) years of age;

(2) a person:

(A) who is eighteen (18), nineteen (19), or twenty (20) years of age; and

(B) who either:

(i) is charged with a delinquent act committed before the person's eighteenth birthday; or

(ii) has been adjudicated a child in need of services before the person's eighteenth birthday; or

(3) a person:

(A) who is alleged to have committed an act that would have been murder if committed by an adult;

(B) who was less than eighteen (18) years of age at the time of the alleged act; and

(C) who is less than twenty-one (21) years of age.

(e) "Child", for purposes of IC 31-36-3, means a person who is less than eighteen (18) years of age.

(f) "Child", for purposes of the Interstate Compact on Juveniles

under IC 31-37-23-1, has the meaning set forth in IC 31-37-23-1.

(g) "Child", for purposes of IC 31-16-12.5, means an individual to whom child support is owed under:

(1) a child support order issued under IC 31-14-10 or IC 31-16-6; or

(2) any other child support order that is enforceable under IC 31-16-12.5.

(h) "Child", for purposes of IC 31-32-5, means an individual who is less than eighteen (18) years of age.

(i) "Child", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-3.

As added by P.L.1-1997, SEC.1. Amended by P.L.27-2004, SEC.1; P.L.145-2006, SEC.177; P.L.120-2007, SEC.1; P.L.138-2007, SEC.7; P.L.133-2008, SEC.4; P.L.48-2012, SEC.10.

IC 31-9-2-14
"Child abuse or neglect"

Sec. 14. (a) "Child abuse or neglect", for purposes of IC 31-32-11-1, IC 31-33, IC 31-34-7-4, and IC 31-39-8-4, refers to a child described in IC 31-34-1-1 through IC 31-34-1-5, regardless of whether the child needs care, treatment, rehabilitation, or the coercive intervention of a court.

(b) For purposes of subsection (a), the term under subsection (a) does not refer to a child who is alleged to be a victim of a sexual offense under IC 35-42-4-3 unless the alleged offense under IC 35-42-4-3 involves the fondling or touching of the buttocks, genitals, or female breasts, regardless of whether the child needs care, treatment, rehabilitation, or the coercive intervention of a court.

(c) "Child abuse or neglect", for purposes of IC 31-34-2.3, refers to acts or omissions by a person against a child as described in IC 31-34-1-1 through IC 31-34-1-9, regardless of whether the child needs care, treatment, rehabilitation, or the coercive intervention of a court.

As added by P.L.1-1997, SEC.1. Amended by P.L.1-2006, SEC.496; P.L.52-2007, SEC.6; P.L.48-2012, SEC.11.

IC 31-9-2-14.5
"Child at imminent risk of placement"

Sec. 14.5. "Child at imminent risk of placement", for purposes of IC 31-26-5, has the meaning set forth in IC 31-26-5-1.

As added by P.L.145-2006, SEC.178.

IC 31-9-2-15
"Child born in wedlock"

Sec. 15. "Child born in wedlock", for purposes of IC 31-19-9, means a child born to:

(1) a woman; and

(2) a man who is presumed to be the child's father under IC 31-14-7-1(1) or IC 31-14-7-1(2) unless the presumption is

rebutted.
As added by P.L.1-1997, SEC.1.

IC 31-9-2-16
"Child born out of wedlock"
Sec. 16. "Child born out of wedlock", for purposes of IC 31-19-3, IC 31-19-4-4, and IC 31-19-9, means a child who is born to:
(1) a woman; and
(2) a man who is not presumed to be the child's father under IC 31-14-7-1(1) or IC 31-14-7-1(2).
As added by P.L.1-1997, SEC.1.

IC 31-9-2-16.3
"Child care"
Sec. 16.3. "Child care", for purposes of IC 31-27, means a service that provides for the care, health, safety, and supervision of a child's social, emotional, and educational growth.
As added by P.L.145-2006, SEC.179.

IC 31-9-2-16.4
"Child caregiver"
Sec. 16.4. "Child caregiver", for purposes of section 31 of this chapter, means a person who provides, or is responsible for providing, care and supervision of a child (other than a child of whom the person is a parent, stepparent, grandparent, aunt, uncle, sibling, legal guardian or custodian with whom the person resides) at a residential property that is not the child's place of residence, if the person:
(1) is not required to be licensed as the operator of:
(A) a child care home under IC 12-17.2-5; or
(B) a foster family home under IC 31-27-4;
(2) provides care and supervision of a child while unattended by the child's:
(A) parent;
(B) guardian; or
(C) custodian with whom the child resides; and
(3) receives more than two thousand dollars ($2,000) in annual compensation for providing care and supervision of a child or children.
As added by P.L.124-2007, SEC.8.

IC 31-9-2-16.5
"Child care provider"
Sec. 16.5. "Child care provider", for purposes of IC 31-33-26, has the meaning set forth in IC 31-33-26-1.
As added by P.L.36-2001, SEC.1. Amended by P.L.138-2007, SEC.8.

IC 31-9-2-16.7
"Child caring institution"
Sec. 16.7. "Child caring institution", for purposes of IC 31-27,

means:

(1) a residential facility that provides child care on a twenty-four (24) hour basis for more than ten (10) children; or

(2) a residential facility with a capacity of not more than ten (10) children that does not meet the residential structure requirements of a group home.

As added by P.L.145-2006, SEC.180.

IC 31-9-2-16.8
"Child custody determination"

Sec. 16.8. "Child custody determination", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-4.

As added by P.L.138-2007, SEC.9.

IC 31-9-2-16.9
"Child custody proceeding"

Sec. 16.9. "Child custody proceeding", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-5.

As added by P.L.138-2007, SEC.10.

IC 31-9-2-17
"Child in need of services"

Sec. 17. "Child in need of services", for purposes of this title, refers to a child described in IC 31-34-1.

As added by P.L.1-1997, SEC.1. Amended by P.L.145-2006, SEC.181; P.L.146-2008, SEC.536.

IC 31-9-2-17.5
"Child placing agency"

Sec. 17.5. "Child placing agency", for purposes of IC 31-27, means a person that provides child welfare services to children and families, including:

(1) home studies, investigation, and recommendation of families for the purpose of placing, arranging, or causing the placement of children for adoption, foster care, or residential care; and

(2) supervision of those placements.

As added by P.L.1-2007, SEC.189.

IC 31-9-2-17.8
"Child services"

Sec. 17.8. "Child services", for purposes of this title, means the following:

(1) Services, other than services that are costs of secure detention, specifically provided by or on behalf of the department for or on behalf of children who are:

(A) adjudicated to be:

(i) children in need of services under IC 31-34; or

(ii) delinquent children under IC 31-37;

(B) parties in a child in need of services case filed under IC 31-34 or in a delinquency case filed under IC 31-37 before adjudication or entry of a dispositional decree;
(C) subject to temporary care or supervision by the department under any applicable provision of IC 31-33, IC 31-34, or IC 31-37;
(D) recipients or beneficiaries of a program of informal adjustment approved under IC 31-34-8 or IC 31-37-9; or
(E) recipients or beneficiaries of:
(i) adoption assistance or kinship guardianship assistance under Title IV-E of the federal Social Security Act (42 U.S.C. 673), as amended;
(ii) adoption subsidies or assistance under IC 31-19-26.5;
(iii) assistance, including emergency assistance or assisted guardianships, provided under Title IV-A of the federal Social Security Act (42 U.S.C. 601 et seq.), as amended; or
(iv) other financial assistance provided to or for the benefit of a child who was previously adjudicated as a child in need of services or delinquent child, including a legal guardianship established to implement a permanency plan under IC 31-34-21-7.5(c)(1)(E) if IC 29-3-8-9 applies and the assistance is approved under a rule or published policy of the department.

(2) Costs of using an institution or facility for providing educational services to children described in subdivision (1)(A), under either IC 20-33-2-29 (if applicable) or IC 20-26-11-13 (if applicable).

As added by P.L.146-2008, SEC.537. Amended by P.L.229-2011, SEC.255; P.L.128-2012, SEC.26.

IC 31-9-2-18
"Child support guidelines"

Sec. 18. "Child support guidelines", for purposes of IC 31-16-8-1, refers to the guidelines adopted by the Indiana supreme court.

As added by P.L.1-1997, SEC.1. Amended by P.L.207-2013, SEC.16.

IC 31-9-2-19
"Child support order"

Sec. 19. "Child support order", for purposes of the Uniform Interstate Family Support Act under IC 31-18, has the meaning set forth in IC 31-18-1-3.

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

IC 31-9-2-19.3
"Child welfare agency"

Sec. 19.3. "Child welfare agency", for purposes of IC 31-25-2-20.4, means:

(1) the department of child services; and
(2) a person (as defined in IC 24-4-14-5) that, directly or

indirectly, provides:

(A) services to a child or family of a child, for which payment is made, in whole or in part, by the department of child services or a local office of the department of child services;

(B) services to:

(i) a child who is; or

(ii) a family with;

a child at imminent risk of placement (as defined in IC 31-26-5-1) who is referred by the department of child services or a local office of the department of child services to the person for family support or family preservation services; or

(C) assistance to or works in cooperation with the department of child services in the investigations of allegations of possible child abuse or neglect in accordance with IC 31-33.

As added by P.L.138-2007, SEC.11.

IC 31-9-2-19.5
"Child welfare services"

Sec. 19.5. "Child welfare services", for purposes of this title, means services provided under a child welfare program.

As added by P.L.145-2006, SEC.182. Amended by P.L.146-2008, SEC.538.

IC 31-9-2-19.6
"Child welfare program"

Sec. 19.6. "Child welfare program", for purposes of this title, has the meaning set forth in IC 31-26-3.5-1.

As added by P.L.146-2008, SEC.539.

IC 31-9-2-20
"Child with a disability"

Sec. 20. "Child with a disability", for purposes of IC 31-34-1-9, means an individual who:

(1) is less than eighteen (18) years of age; and

(2) has a disability (as defined in IC 22-9-1-3(r)).

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

IC 31-9-2-20.3
"Child with special needs"

Sec. 20.3. "Child with special needs", for purposes of IC 31-19-26.5, has the meaning set forth in IC 31-19-26.5-2.

As added by P.L.146-2008, SEC.540.

IC 31-9-2-20.5
"Commencement"

Sec. 20.5. "Commencement", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth

in IC 31-21-2-6.
As added by P.L.138-2007, SEC.12.

IC 31-9-2-21
Repealed
(Repealed by P.L.131-2009, SEC.76.)

IC 31-9-2-22
"Compact"
Sec. 22. "Compact", for purposes of IC 31-37-23, has the meaning set forth in IC 31-37-23-2.
As added by P.L.1-1997, SEC.1.

IC 31-9-2-22.5
"Conduct a criminal history check"
Sec. 22.5. "Conduct a criminal history check", for purposes of IC 31-19, IC 31-26, IC 31-27, IC 31-33, IC 31-34, IC 31-37, and IC 31-39-2-13.5, means to:
(1) request:
(A) the state police department to conduct a:
(i) fingerprint based criminal history background check of both national and state records data bases concerning a person who is at least eighteen (18) years of age in accordance with IC 10-13-3-27 and IC 10-13-3-39; or
(ii) national name based criminal history record check (as defined in IC 10-13-3-12.5) of a person who is at least eighteen (18) years of age as provided by IC 10-13-3-27.5; or
(B) if an individual has:
(i) a physical disability that prevents fingerprinting and a person approved by the department who is trained to take fingerprints or a qualified medical practitioner (as defined in IC 31-9-2-100.5) verifies that the individual has a disabling condition that prevents fingerprinting; or
(ii) low quality fingerprints, as a result of age, occupation, or otherwise, that prevent fingerprint results from being obtained and the individual's fingerprints have been rejected the required number of times by automated fingerprint classification equipment or rejected by a person designated by the Indiana state police department to examine and classify fingerprints;
the state police department to conduct a national name based criminal history record check (as defined in IC 10-13-3-12.5) or request the state police department to release or allow inspection of a limited criminal history (as defined in IC 10-13-3-11) and the state police in every state the individual has resided in the past five (5) years to release or allow inspection of the state's criminal history;
(2) collect each substantiated report of child abuse or neglect reported in a jurisdiction where a probation officer, a

caseworker, or the department of child services has reason to believe that a person who is fourteen (14) years of age or older, or a person for whom a fingerprint based criminal history background check is required under IC 31, resided within the previous five (5) years; and

(3) request information concerning any substantiated report of child abuse or neglect relating to a person who is fourteen (14) years of age or older that is contained in a national registry of substantiated cases of child abuse or neglect that is established and maintained by the United States Department of Health and Human Services, to the extent that the information is accessible under 42 U.S.C. 16990 and any applicable regulations or policies of the Department of Health and Human Services.

As added by P.L.234-2005, SEC.81. Amended by P.L.145-2006, SEC.183; P.L.138-2007, SEC.13; P.L.162-2011, SEC.5.

IC 31-9-2-23
Repealed

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

IC 31-9-2-23.7
"Contact"

Sec. 23.7. "Contact", for purposes of IC 31-33-18-1.5, has the meaning set forth in IC 31-33-18-1.5(d).

As added by P.L.183-2011, SEC.3.

IC 31-9-2-24
"Controlled substance"

Sec. 24. "Controlled substance", for purposes of the juvenile law, has the meaning set forth in IC 35-48-1.

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

IC 31-9-2-24.5
"Costs of secure detention"

Sec. 24.5. "Costs of secure detention", for purposes of this title, has the meaning set forth in IC 31-40-1-1.5.

As added by P.L.146-2008, SEC.541.

IC 31-9-2-25
"Council"

Sec. 25. "Council", for purposes of IC 31-31-9, refers to the city-county council of the consolidated city within the county.

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

IC 31-9-2-26
Repealed

(Repealed by P.L.128-2012, SEC.27.)

IC 31-9-2-27
"Court"

Sec. 27. (a) "Court", for purposes of IC 31-15, IC 31-16, and IC 31-17, means the circuit, superior, or other courts of Indiana upon which jurisdiction to enter dissolution decrees has been or may be conferred.

(b) "Court", for purposes of IC 31-16-15, refers to the court having jurisdiction over child support orders.

(c) "Court", for purposes of IC 31-37-23, has the meaning set forth in IC 31-37-23-3.

(d) "Court", for purposes of the Interstate Compact on Juveniles under IC 31-37-23-1, has the meaning set forth in IC 31-37-23-1.

(e) "Court", for purposes of IC 31-27, means a circuit or superior court.

(f) "Court", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-7.

As added by P.L.1-1997, SEC.1. Amended by P.L.145-2006, SEC.185; P.L.138-2007, SEC.15.

IC 31-9-2-28
"Court appointed special advocate"

Sec. 28. (a) "Court appointed special advocate", for purposes of IC 31-15-6, IC 31-17-6, IC 31-19-16, IC 31-19-16.5, IC 31-28-5, and the juvenile law, means a community volunteer who:

(1) has completed a training program approved by the court;

(2) has been appointed by a court to represent and protect the best interests of a child; and

(3) may research, examine, advocate, facilitate, and monitor a child's situation.

(b) "Court appointed special advocate", for purposes of IC 31-33, IC 31-34, IC 31-35, and IC 31-37, means a community volunteer who:

(1) has completed a training program approved by the court that includes training in:

(A) the identification and treatment of child abuse and neglect; and

(B) early childhood, child, and adolescent development;

as required by 42 U.S.C. 5106a(b)(2)(B)(xiii);

(2) has been appointed by a court to represent and protect the best interests of a child; and

(3) may research, examine, advocate, facilitate, and monitor a child's situation.

As added by P.L.1-1997, SEC.1. Amended by P.L.196-1997, SEC.1; P.L.14-2000, SEC.63; P.L.133-2008, SEC.5; P.L.48-2012, SEC.12.

IC 31-9-2-29
"Crime"

Sec. 29. "Crime", for purposes of the juvenile law, means an offense for which an adult might be imprisoned or incarcerated if convicted under the law of the jurisdiction in which the offense is committed.

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

IC 31-9-2-29.5
"Crime involving domestic or family violence"

Sec. 29.5. "Crime involving domestic or family violence" means a crime that occurs when a family or household member commits, attempts to commit, or conspires to commit any of the following against another family or household member:

(1) A homicide offense under IC 35-42-1.
(2) A battery offense under IC 35-42-2.
(3) Kidnapping or confinement under IC 35-42-3.
(4) A sex offense under IC 35-42-4.
(5) Robbery under IC 35-42-5.
(6) Arson or mischief under IC 35-43-1.
(7) Burglary or trespass under IC 35-43-2.
(8) Disorderly conduct under IC 35-45-1.
(9) Intimidation or harassment under IC 35-45-2.
(10) Voyeurism under IC 35-45-4.
(11) Stalking under IC 35-45-10.
(12) An offense against the family under IC 35-46-1-2 through IC 35-46-1-8, IC 35-46-1-12, or IC 35-46-1-15.1.
(13) Human and sexual trafficking crimes under IC 35-42-3.5.
(14) A crime involving animal cruelty and a family or household member under IC 35-46-3-12(b)(2) or IC 35-46-3-12.5.

As added by P.L.133-2002, SEC.20. Amended by P.L.173-2006, SEC.46; P.L.171-2007, SEC.1; P.L.111-2009, SEC.6.

IC 31-9-2-29.7
Repealed

(Repealed by P.L.234-2005, SEC.192.)

IC 31-9-2-30
"Custodial parent"

Sec. 30. "Custodial parent", for purposes of IC 31-14-13-8, IC 31-14-15, IC 31-16-6-1.5, IC 31-16-12.5, IC 31-17-2-22, and IC 31-17-4, means the parent who has been awarded physical custody of a child by a court.

As added by P.L.1-1997, SEC.1. Amended by P.L.27-2004, SEC.2; P.L.210-2011, SEC.1; P.L.207-2013, SEC.17.

IC 31-9-2-31
"Custodian"

Sec. 31. (a) "Custodian", for purposes of the juvenile law, means a person with whom a child resides.

(b) "Custodian", for purposes of IC 31-34-1, includes any person who is:

(1) a license applicant or licensee of:
(A) a foster home or residential child care facility that is required to be licensed or is licensed under IC 31-27;

(B) a child care center that is required to be licensed or is licensed under IC 12-17.2-4; or

(C) a child care home that is required to be licensed or is licensed under IC 12-17.2-5;

(2) a person who is responsible for care, supervision, or welfare of children while providing services as an owner, operator, director, manager, supervisor, employee, or volunteer at:

(A) a home, center, or facility described in subdivision (1);

(B) a child care ministry, as defined in IC 12-7-2-28.8, that is exempt from licensing requirements and is registered or required to be registered under IC 12-17.2-6;

(C) a home, center, or facility of a child care provider, as defined in IC 12-7-2-149.1(4);

(D) a home, center, or facility that is the location of a program that provides child care, as defined in section 16.3 of this chapter, to serve migrant children and that is exempt from licensing under IC 12-17.2-2-8(6), whether or not the program is certified as described in IC 12-17.2-2-9; or

(E) a school, as defined in section 113.5 of this chapter;

(3) a child caregiver, as defined in section 16.4 of this chapter;

(4) a member of the household of the child's noncustodial parent; or

(5) an individual who has or intends to have direct contact, on a regular and continuing basis, with a child for whom the individual provides care and supervision.

As added by P.L.1-1997, SEC.1. Amended by P.L.146-2006, SEC.12; P.L.124-2007, SEC.9; P.L.162-2011, SEC.7.

IC 31-9-2-32
Repealed

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

IC 31-9-2-33
Repealed

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

IC 31-9-2-34
Repealed

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

IC 31-9-2-35
Repealed

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

IC 31-9-2-35.5
"De facto custodian"

Sec. 35.5. "De facto custodian", for purposes of IC 31-14-13, IC 31-17-2, and IC 31-34-4, means a person who has been the primary caregiver for, and financial support of, a child who has resided with the person for at least:

(1) six (6) months if the child is less than three (3) years of age; or

(2) one (1) year if the child is at least three (3) years of age.

Any period after a child custody proceeding has been commenced may not be included in determining whether the child has resided with the person for the required minimum period. The term does not include a person providing care for a child in a foster family home (as defined in IC 31-9-2-46.9).

As added by P.L.96-1999, SEC.1. Amended by P.L.145-2006, SEC.186; P.L.52-2007, SEC.7.

IC 31-9-2-36
"Delinquent"

Sec. 36. (a) "Delinquent", for purposes of IC 31-16-15, refers to a situation in which an obligor is the equivalent of one (1) month in arrears in the payment of child support ordered by a court.

(b) "Delinquent", for purposes of IC 31-16-16, refers to a situation in which an obligor is in arrears in the payment of child support ordered by a court in Indiana or another state that has jurisdiction over the support order.

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

IC 31-9-2-37
"Delinquent child"

Sec. 37. (a) "Delinquent child", for purposes of the juvenile law, except as provided in subsection (b), means:

(1) a child described in IC 31-37-1-1; or

(2) a child described in IC 31-37-2-1.

(b) "Delinquent child", for purposes of IC 31-37-23, has the meaning set forth in IC 31-37-23-4.

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

IC 31-9-2-38
"Delinquent juvenile"

Sec. 38. "Delinquent juvenile", for purposes of the Interstate Compact on Juveniles under IC 31-37-23-1, has the meaning set forth in IC 31-37-23-1.

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

IC 31-9-2-38.5
"Department"

Sec. 38.5. "Department", for purposes of IC 31-19 and IC 31-25 through IC 31-40, has the meaning set forth in IC 31-25-2-1.

As added by P.L.234-2005, SEC.82. Amended by P.L.145-2006, SEC.187; P.L.138-2007, SEC.16.

IC 31-9-2-39
"Dependent child" or "neglected child"

Sec. 39. "Dependent child" or "neglected child", for purposes of IC 31-37-23, has the meaning set forth in IC 31-37-23-5.

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

IC 31-9-2-39.5
"Destitute child"

Sec. 39.5. "Destitute child", for purposes of this title, means an individual:

(1) who is needy;
(2) who is not a public ward;
(3) who is less than eighteen (18) years of age;
(4) who has been deprived of parental support or care because of a parent's:
  (A) death;
  (B) continued absence from the home; or
  (C) physical or mental incapacity;
(5) whose relatives liable for the individual's support are not able to provide adequate care or support for the individual without public assistance; and
(6) who is in need of foster care, under circumstances that do not require the individual to be made a public ward.

As added by P.L.145-2006, SEC.188. Amended by P.L.146-2008, SEC.543.

IC 31-9-2-40
"Director"

Sec. 40. "Director", for purposes of IC 31-25-1, IC 31-25-2, IC 31-33, IC 31-34, and IC 31-37, refers to the director of the department of child services.

As added by P.L.1-1997, SEC.1. Amended by P.L.55-1997, SEC.10; P.L.234-2005, SEC.83; P.L.145-2006, SEC.190.

IC 31-9-2-41
"Dissolution decree"

Sec. 41. "Dissolution decree", for purposes of IC 31-15, IC 31-16, and IC 31-17, means a judicial decree entered in a proceeding for the dissolution of marriage which:

(1) has the effect of terminating the marriage and restoring the parties to the state of unmarried persons; and
(2) may include those matters set forth in IC 31-15-2-16.

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

IC 31-9-2-41.2
Repealed

(Repealed by P.L.145-2006, SEC.376.)

IC 31-9-2-42
"Domestic or family violence"

Sec. 42. "Domestic or family violence" means, except for an act of self defense, the occurrence of one (1) or more of the following acts committed by a family or household member:

(1) Attempting to cause, threatening to cause, or causing

physical harm to another family or household member without legal justification.

(2) Placing a family or household member in fear of physical harm without legal justification.

(3) Causing a family or household member to involuntarily engage in sexual activity by force, threat of force, or duress.

(4) Beating (as described in IC 35-46-3-0.5(2)), torturing (as described in IC 35-46-3-0.5(5)), mutilating (as described in IC 35-46-3-0.5(3)), or killing a vertebrate animal without justification with the intent to threaten, intimidate, coerce, harass, or terrorize a family or household member.

For purposes of IC 22-4-15-1 and IC 34-26-5, domestic or family violence also includes stalking (as defined in IC 35-45-10-1) or a sex offense under IC 35-42-4, whether or not the stalking or sex offense is committed by a family or household member.

As added by P.L.1-1997, SEC.1. Amended by P.L.133-2002, SEC.21; P.L.189-2003, SEC.9; P.L.221-2003, SEC.3; P.L.97-2004, SEC.104; P.L.171-2007, SEC.2.

IC 31-9-2-42.3
"Drug or alcohol screen test"

Sec. 42.3. "Drug or alcohol screen test" means a test used to determine the presence or use of alcohol, a controlled substance, or a drug in a person's bodily substance.

As added by P.L.131-2009, SEC.7.

IC 31-9-2-43
"Duty of support"

Sec. 43. "Duty of support", for purposes of the Uniform Interstate Family Support Act under IC 31-18, has the meaning set forth in IC 31-18-1-4.

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

IC 31-9-2-43.2
"Early intervention advocate"

Sec. 43.2. "Early intervention advocate", for purposes of IC 31-32-3, means a volunteer or staff member of a preventative program who is appointed by the court as an officer of the court to assist, represent, and protect the interests of at-risk children.

As added by P.L.183-2011, SEC.4.

IC 31-9-2-43.3
Repealed

(Repealed by P.L.119-2013, SEC.4.)

IC 31-9-2-43.5
"Emergency medical services provider"

Sec. 43.5. "Emergency medical services provider" has the meaning set forth in IC 16-41-10-1.

As added by P.L.133-2000, SEC.2.

IC 31-9-2-43.8
"Evaluator"

Sec. 43.8. "Evaluator", for purposes of IC 31-32-2 and IC 31-37-8-4.5, means a person responsible for providing mental health screening, evaluation, or treatment to a child in connection with a juvenile proceeding or probation proceeding under this title.
As added by P.L.120-2007, SEC.2.

IC 31-9-2-44
"Executive authority"

Sec. 44. "Executive authority", for purposes of IC 31-37-23, has the meaning set forth in IC 31-37-23-6.
As added by P.L.1-1997, SEC.1.

IC 31-9-2-44.3
Repealed

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

IC 31-9-2-44.5
"Family or household member"

Sec. 44.5. (a) An individual is a "family or household member" of another person if the individual:

(1) is a current or former spouse of the other person;
(2) is dating or has dated the other person;
(3) is engaged or was engaged in a sexual relationship with the other person;
(4) is related by blood or adoption to the other person;
(5) is or was related by marriage to the other person;
(6) has or previously had an established legal relationship:
  (A) as a guardian of the other person;
  (B) as a ward of the other person;
  (C) as a custodian of the other person;
  (D) as a foster parent of the other person; or
  (E) in a capacity with respect to the other person similar to those listed in clauses (A) through (D); or
(7) has a child in common with the other person.

(b) An individual is a "family or household member" of both persons to whom subsection (a)(1), (a)(2), (a)(3), (a)(4), (a)(5), (a)(6), or (a)(7) applies if the individual is a minor child of one (1) of the persons.
As added by P.L.133-2002, SEC.22. Amended by P.L.97-2004, SEC.105.

IC 31-9-2-44.8
"Family preservation services"

Sec. 44.8. "Family preservation services", for purposes of IC 31-26-5 and IC 31-26-6, means short term, highly intensive services designed to protect, treat, and support the following:

(1) A family with a child at risk of placement by enabling the family to remain intact and care for the child at home.

(2) A family that adopts or plans to adopt an abused or neglected child who is at risk of placement or adoption disruption by assisting the family to achieve or maintain a stable, successful adoption of the child.

As added by P.L.138-2007, SEC.17. Amended by P.L.146-2008, SEC.544; P.L.2-2014, SEC.115.

IC 31-9-2-45
"Family services"

Sec. 45. "Family services", for purposes of the juvenile law, means services provided to:

(1) prevent a child from being removed from a parent, guardian, or custodian;

(2) reunite the child with a parent, guardian, or custodian; or

(3) implement a permanent plan of adoption, guardianship, or emancipation of a child.

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

IC 31-9-2-46
"Final separation"

Sec. 46. "Final separation", for purposes of IC 31-15-7, means the date of filing of the petition for dissolution of marriage under IC 31-15-2-4 (or IC 31-1-11.5-3 before its repeal). However, if:

(1) a legal separation proceeding involving the parties was pending when the petition for dissolution of marriage under IC 31-15-2-4 (or IC 31-1-11.5-3 before its repeal) was filed; or

(2) a provisional order or final decree for legal separation of the parties was in effect when the petition for dissolution of marriage under IC 31-15-2-4 (or IC 31-1-11.5-3 before its repeal) was filed;

the term means the date that the petition for legal separation was filed under IC 31-15-3-4 (or IC 31-1-11.5-3 before its repeal).

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

IC 31-9-2-46.5
"Financial institution"

Sec. 46.5. "Financial institution", for purposes of IC 31-25-3 and IC 31-25-4, has the meaning set forth in IC 31-25-4-3.

As added by P.L.145-2006, SEC.192.

IC 31-9-2-46.7
"Foster care"

Sec. 46.7. "Foster care", for purposes of IC 31-25, IC 31-26, IC 31-27, IC 31-28-1, IC 31-28-2, IC 31-28-3, and IC 31-28-5.8, means living in:

(1) a place licensed under IC 31-27 or a comparable law of another state; or

(2) the home of an adult relative who is not licensed as a foster family home.

As added by P.L.145-2006, SEC.193. Amended by P.L.143-2008,

SEC.1; P.L.48-2012, SEC.13.

IC 31-9-2-46.9
"Foster family home"

Sec. 46.9. "Foster family home", for purposes of IC 31-27, means a place where an individual resides and provides care and supervision on a twenty-four (24) hour basis to a child, as defined in section 13(d) of this chapter, who is receiving care and supervision under a juvenile court order or for purposes of placement.
As added by P.L.145-2006, SEC.194. Amended by P.L.143-2008, SEC.2; P.L.48-2012, SEC.14.

IC 31-9-2-47
"Foster parent"

Sec. 47. "Foster parent", for purposes of the juvenile law, means an individual who provides care and supervision to a child in a foster family home (as defined in IC 31-9-2-46.9).
As added by P.L.1-1997, SEC.1. Amended by P.L.145-2006, SEC.195; P.L.123-2014, SEC.2.

IC 31-9-2-47.6
"Fund"

Sec. 47.6. "Fund", for purposes of IC 31-26-4, has the meaning set forth in IC 31-26-4-3.
As added by P.L.145-2006, SEC.196.

IC 31-9-2-48
"Governor"

Sec. 48. "Governor", for purposes of IC 31-18-8 in the Uniform Interstate Family Support Act, has the meaning set forth in IC 31-18-8-1(a).
As added by P.L.1-1997, SEC.1.

IC 31-9-2-48.3
"Grandparent visitation"

Sec. 48.3. "Grandparent visitation", for purposes of IC 31-17-2.2, means visitation rights granted to a grandparent under IC 31-17-5.
As added by P.L.50-2006, SEC.1.

IC 31-9-2-48.5
"Group home"

Sec. 48.5. "Group home", for purposes of IC 31-27, means a residential structure in which care is provided on a twenty-four (24) hour basis for not more than ten (10) children.
As added by P.L.145-2006, SEC.197.

IC 31-9-2-49
"Guardian"

Sec. 49. (a) "Guardian", for purposes of IC 31-11-10-1, IC 31-15-2-5, and IC 31-15-3-4, has the meaning set forth in

IC 29-3-1-6.

(b) "Guardian", for purposes of the juvenile law, means a person appointed by a court to have the care and custody of a child or the child's estate, or both.

As added by P.L.1-1997, SEC.1. Amended by P.L.83-2014, SEC.9.

IC 31-9-2-50
"Guardian ad litem"

Sec. 50. (a) "Guardian ad litem", for purposes of IC 31-15-6, IC 31-19-16, IC 31-19-16.5, IC 31-28-5, and the juvenile law, means an attorney, a volunteer, or an employee of a county program designated under IC 33-24-6-4 who is appointed by a court to:

(1) represent and protect the best interests of a child; and

(2) provide the child with services requested by the court, including:

(A) researching;

(B) examining;

(C) advocating;

(D) facilitating; and

(E) monitoring;

the child's situation.

A guardian ad litem who is not an attorney must complete the same court approved training program that is required for a court appointed special advocate under section 28 of this chapter.

(b) "Guardian ad litem", for purposes of IC 31-33, IC 31-34, IC 31-35 and IC 31-37, means an attorney, a volunteer, or an employee of a county program designated under IC 33-24-6-4 who:

(1) is appointed by a court to represent and protect the best interests of a child;

(2) is appointed by a court to provide the child with services requested by the court, including:

(A) researching;

(B) examining;

(C) advocating;

(D) facilitating; and

(E) monitoring;

the child's situation; and

(3) has completed training appropriate for the person's role, including training in:

(A) the identification and treatment of child abuse and neglect; and

(B) early childhood, child, and adolescent development;

as required by 42 U.S.C. 5106a(b)(2)(B)(xiii).

A guardian ad litem who is not an attorney must complete the same court approved training program that is required for a court appointed special advocate under section 28 of this chapter.

As added by P.L.1-1997, SEC.1. Amended by P.L.196-1997, SEC.2; P.L.2-1998, SEC.72; P.L.98-2004, SEC.101; P.L.133-2008, SEC.6; P.L.1-2010, SEC.115; P.L.48-2012, SEC.15.

IC 31-9-2-51
"Hard to place child" or "hard to place children"

Sec. 51. "Hard to place child" or "hard to place children", for purposes of IC 31-19, means a child who is or children who are disadvantaged:

(1) because of:
(A) ethnic background;
(B) race;
(C) color;
(D) language;
(E) physical, mental, or medical disability; or
(F) age; or

(2) because the child or children are members of a sibling group that should be placed in the same home.

As added by P.L.1-1997, SEC.1. Amended by P.L.200-1999, SEC.1.

IC 31-9-2-52
"Health care provider"

Sec. 52. "Health care provider", for purposes of IC 31-32-6-4, IC 31-32-11-1, and IC 31-33, means any of the following:

(1) A licensed physician, intern, or resident.
(2) An osteopath.
(3) A chiropractor.
(4) A dentist.
(5) A podiatrist.
(6) A registered nurse or other licensed nurse.
(7) A mental health professional.
(8) A paramedic or an emergency medical technician.
(9) A social worker, an x-ray technician, or a laboratory technician employed by a hospital.
(10) A pharmacist.
(11) A person working under the direction of any of the practitioners listed in subdivisions (1) through (10).

As added by P.L.1-1997, SEC.1. Amended by P.L.170-2009, SEC.10; P.L.1-2010, SEC.116.

IC 31-9-2-53
"Home state"

Sec. 53. (a) "Home state", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-8.

(b) "Home state", for purposes of the Uniform Interstate Family Support Act under IC 31-18, has the meaning set forth in IC 31-18-1-5.

As added by P.L.1-1997, SEC.1. Amended by P.L.138-2007, SEC.18.

IC 31-9-2-54
"Identifying information"

Sec. 54. "Identifying information", for purposes of IC 31-19-9-6 and IC 31-19-17 through IC 31-19-25.5, means:

(1) any name that a party to an adoption has used or is using;
(2) any address that a party to an adoption has used or is using;
(3) the original certificates of birth stored with the state department of health with evidence of adoption under IC 31-19-13-2; and
(4) any other information, except the medical history, that may identify a person as a party to an adoption or as a birth parent, an adoptee, or an adoptive parent.

As added by P.L.1-1997, SEC.1. Amended by P.L.191-2011, SEC.6.

IC 31-9-2-54.5
"Incapacitated person"

Sec. 54.5. "Incapacitated person", for purposes of IC 31-11-10-1, IC 31-15-2-5, and IC 31-15-3-4, has the meaning set forth in IC 29-3-1-7.5.

As added by P.L.83-2014, SEC.10.

IC 31-9-2-55
"Includes"

Sec. 55. "Includes" means includes but is not limited to.

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

IC 31-9-2-56
"Income"

Sec. 56. "Income", for purposes of IC 31-16-15, IC 31-16-16, and the Uniform Interstate Family Support Act under IC 31-18, has the meaning set forth in IC 31-18-1-6.

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

IC 31-9-2-57
"Income payor"

Sec. 57. "Income payor", for purposes of IC 31-16-15, IC 31-16-16, and the Uniform Interstate Family Support Act under IC 31-18, has the meaning set forth in IC 31-18-1-7.

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

IC 31-9-2-58
"Income withholding order"

Sec. 58. "Income withholding order", for purposes of the Uniform Interstate Family Support Act under IC 31-18, has the meaning set forth in IC-31-18-1-8.

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

IC 31-9-2-58.3
"Index"

Sec. 58.3. "Index", for purposes of IC 31-33-26, means the child protection index established under IC 31-33-26-2.

As added by P.L.138-2007, SEC.19.

IC 31-9-2-58.5

Repealed

(Repealed by P.L.131-2009, SEC.76.)

IC 31-9-2-59
Repealed

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

IC 31-9-2-59.5
"Initial determination"

Sec. 59.5. "Initial determination", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-9.

As added by P.L.138-2007, SEC.20.

IC 31-9-2-60
"Initiating state"

Sec. 60. "Initiating state", for purposes of the Uniform Interstate Family Support Act under IC 31-18, has the meaning set forth in IC 31-18-1-9.

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

IC 31-9-2-61
"Initiating tribunal"

Sec. 61. "Initiating tribunal", for purposes of the Uniform Interstate Family Support Act under IC 31-18, has the meaning set forth in IC 31-18-1-10.

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

IC 31-9-2-62
"Intake officer"

Sec. 62. "Intake officer", for purposes of the juvenile law, means a probation officer or a caseworker who performs the intake, preliminary inquiry, or other functions specified by the juvenile court or by the juvenile law.

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

IC 31-9-2-63
"Intended biological parent"

Sec. 63. "Intended biological parent", for purposes of sections 126 and 127 of this chapter, means a party to a surrogate agreement who:

(1) agrees to be or is genetically related to a child borne by a surrogate; and

(2) is not the surrogate's spouse.

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

IC 31-9-2-64
"Interested person"

Sec. 64. "Interested person", for purposes of IC 31-19-20 and IC 31-19-24, means any of the following:

(1) An adoptee.

(2) A birth parent.
(3) An adoptive parent.
(4) A relative of a birth parent.
(5) A relative of an adoptive parent.
(6) A relative of an adoptee.
(7) A pre-adoptive sibling (as defined in section 93 of this chapter).
(8) The department.
(9) An adoption agency.
(10) A court.

As added by P.L.1-1997, SEC.1. Amended by P.L.145-2006, SEC.198; P.L.97-2013, SEC.1.

IC 31-9-2-64.5
"Issuing court"

Sec. 64.5. "Issuing court", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-10.

As added by P.L.138-2007, SEC.21.

IC 31-9-2-65
"Issuing state"

Sec. 65. (a) "Issuing state", for purposes of the Uniform Interstate Family Support Act under IC 31-18, has the meaning set forth in IC 31-18-1-11.

(b) "Issuing state", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-11.

As added by P.L.1-1997, SEC.1. Amended by P.L.138-2007, SEC.22.

IC 31-9-2-66
"Issuing tribunal"

Sec. 66. "Issuing tribunal", for purposes of the Uniform Interstate Family Support Act under IC 31-18, has the meaning set forth in IC 31-18-1-12.

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

IC 31-9-2-67
"Joint legal custody"

Sec. 67. "Joint legal custody", for purposes of IC 31-14-13, IC 31-17-2-13, IC 31-17-2-14, and IC 31-17-2-15, means that the persons awarded joint custody will share authority and responsibility for the major decisions concerning the child's upbringing, including the child's education, health care, and religious training.

As added by P.L.1-1997, SEC.1. Amended by P.L.95-2009, SEC.1.

IC 31-9-2-68
"Judge"

Sec. 68. "Judge", for purposes of the juvenile law, refers to the judge of the juvenile court.

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

IC 31-9-2-69
"Juvenile"
Sec. 69. "Juvenile", for purposes of the Interstate Compact on Juveniles under IC 31-37-23-1, has the meaning set forth in IC 31-37-23-1.
As added by P.L.1-1997, SEC.1.

IC 31-9-2-70
"Juvenile court"
Sec. 70. "Juvenile court", for purposes of the juvenile law, refers to a court having juvenile jurisdiction.
As added by P.L.1-1997, SEC.1.

IC 31-9-2-71
"Juvenile detention facility"
Sec. 71. "Juvenile detention facility", for purposes of the juvenile law, means a facility described in IC 31-31-8-2.
As added by P.L.1-1997, SEC.1.

IC 31-9-2-72
"Juvenile law"
Sec. 72. "Juvenile law" refers to IC 31-30 through IC 31-40.
As added by P.L.1-1997, SEC.1.

IC 31-9-2-72.5
Repealed
(Repealed by P.L.128-2012, SEC.28.)

IC 31-9-2-72.6
"Kinship care navigator"
Sec. 72.6. "Kinship care navigator", for purposes of IC 31-25-2-20, means a person that assists kinship caregivers with understanding and navigating the system of services for children in out-of-home care under the pilot projects established under IC 31-25-2-20.
As added by P.L.153-2007, SEC.2.

IC 31-9-2-73
"Law"
Sec. 73. "Law", for purposes of the Uniform Interstate Family Support Act under IC 31-18, has the meaning set forth in IC 31-18-1-13.
As added by P.L.1-1997, SEC.1.

IC 31-9-2-74
"Law enforcement agency"
Sec. 74. "Law enforcement agency", for purposes of IC 31-36, means a governmental agency or department whose principal

function is the apprehension of criminal offenders.
As added by P.L.1-1997, SEC.1.

IC 31-9-2-75
"Legal settlement"
Sec. 75. "Legal settlement", for purposes of IC 31-34-20-5, IC 31-34-21-10, IC 31-37-19-26, and IC 31-37-20-6, has the meaning set forth in IC 20-18-2-11.
As added by P.L.1-1997, SEC.1. Amended by P.L.1-2005, SEC.198.

IC 31-9-2-76
"Legend drug"
Sec. 76. "Legend drug", for purposes of the juvenile law, has the meaning set forth in IC 16-18-2-199.
As added by P.L.1-1997, SEC.1.

IC 31-9-2-76.3
"Licensee"
Sec. 76.3. "Licensee", for purposes of IC 31-27, means a person who holds a valid license issued under IC 31-27.
As added by P.L.145-2006, SEC.199.

IC 31-9-2-76.4
Repealed
(Repealed by P.L.119-2013, SEC.5.)

IC 31-9-2-76.5
"Long term foster parent"
Sec. 76.5. "Long term foster parent", for purposes of IC 31-34-21-4 and IC 31-34-21-4.5, has the meaning set forth in IC 31-34-21-4.6.
As added by P.L.152-2003, SEC.1. Amended by P.L.97-2004, SEC.106.

IC 31-9-2-76.6
"Local office"
Sec. 76.6. "Local office", for purposes of this title, refers to a local office established by the department to serve a county or a region.
As added by P.L.146-2008, SEC.545.

IC 31-9-2-77
"Maternal or paternal grandparent"
Sec. 77. "Maternal or paternal grandparent", for purposes of IC 31-17-5, includes:
(1) the adoptive parent of the child's parent;
(2) the parent of the child's adoptive parent; and
(3) the parent of the child's parent.
As added by P.L.1-1997, SEC.1.

IC 31-9-2-78
"Medical history"

Sec. 78. "Medical history", for purposes of IC 31-19-18 through IC 31-19-20, means:

(1) a comprehensive report required by IC 31-19-2-7; and
(2) any voluntary medical information transmitted to the state registrar under IC 31-19-18-3.

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

IC 31-9-2-79
"Medical information"

Sec. 79. "Medical information", for purposes of IC 31-19-18, IC 31-19-20, and IC 31-19-24, means any information that may affect the medical history of an adoptee.

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

IC 31-9-2-80
Repealed

(Repealed by P.L.131-2009, SEC.76.)

IC 31-9-2-80.5
Repealed

(Repealed by P.L.119-2013, SEC.6.)

IC 31-9-2-80.8
"Modification"

Sec. 80.8. "Modification", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-12.

As added by P.L.138-2007, SEC.23.

IC 31-9-2-81
Repealed

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

IC 31-9-2-81.5
"Monitor"

Sec. 81.5. "Monitor", for purposes of IC 31-27, means observation to determine the licensee's continuing compliance with IC 31-27.

As added by P.L.145-2006, SEC.202.

IC 31-9-2-82
"Neglected child" or "dependent child"

Sec. 82. "Neglected child" or "dependent child", for purposes of IC 31-37-23, has the meaning set forth in IC 31-37-23-5.

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

IC 31-9-2-83
"Noncustodial parent"

Sec. 83. "Noncustodial parent", for purposes of IC 31-14-13-10,

IC 31-14-15, IC 31-16-6-1.5, and IC 31-17-4, means the parent who is not the custodial parent.
As added by P.L.1-1997, SEC.1. Amended by P.L.210-2011, SEC.2; P.L.207-2013, SEC.18.

IC 31-9-2-84
"Nonidentifying information"
Sec. 84. "Nonidentifying information", for purposes of IC 31-19-18, IC 31-19-21, IC 31-19-23, and IC 31-19-24, means any information, other than a medical history, that:
(1) concerns an interested person to an adoption; and
(2) does not identify a birth parent, an adoptive parent, or an adoptee.
As added by P.L.1-1997, SEC.1.

IC 31-9-2-84.6
"Nonrelocating individual"
Sec. 84.6. "Nonrelocating individual", for purposes of IC 31-14-13 and IC 31-17-2.2, means an individual who has, or has filed an action seeking:
(1) custody of the child;
(2) parenting time with the child; or
(3) visitation with the child under IC 31-17-5.
As added by P.L.50-2006, SEC.2.

IC 31-9-2-84.7
"Nonrelocating parent"
Sec. 84.7. "Nonrelocating parent", for purposes of IC 31-17-2.2, means a parent of a child who has or is seeking:
(1) custody of the child; or
(2) parenting time with the child;
and does not intend to move the individual's principal residence.
As added by P.L.50-2006, SEC.3.

IC 31-9-2-85
"Obligee" or "petitioner"
Sec. 85. (a) "Obligee", for purposes of IC 31-16-15 and IC 31-16-16, means a person who is entitled to receive a payment under a support order.
(b) "Obligee" or "petitioner", for purposes of the Uniform Interstate Family Support Act under IC 31-18, has the meaning set forth in IC 31-18-1-14.
As added by P.L.1-1997, SEC.1. Amended by P.L.103-2007, SEC.11.

IC 31-9-2-86
"Obligor" or "respondent"
Sec. 86. (a) "Obligor", for purposes of IC 31-16-15 and IC 31-16-16, means an individual who has been ordered by a court to pay child support.
(b) "Obligor" or "respondent", for purposes of the Uniform

Interstate Family Support Act under IC 31-18, has the meaning set forth in IC 31-18-1-15.

(c) "Obligor", for purposes of IC 31-25-4, has the meaning set forth in IC 31-25-4-4.

As added by P.L.1-1997, SEC.1. Amended by P.L.145-2006, SEC.203.

IC 31-9-2-87
"Omission"

Sec. 87. "Omission", for purposes of IC 31-34-1-2, means an occurrence in which the parent, guardian, or custodian allowed the child of the parent, guardian, or custodian to receive an injury that the parent, guardian, or custodian had a reasonable opportunity to prevent or mitigate.

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

IC 31-9-2-88
"Parent"

Sec. 88. (a) "Parent", for purposes of the juvenile law, means a biological or an adoptive parent. Unless otherwise specified, the term includes both parents, regardless of their marital status.

(b) "Parent", for purposes of IC 31-34-1, IC 31-34-8, IC 31-34-16, IC 31-34-19, IC 31-34-20 and IC 31-35-2, includes an alleged father.

As added by P.L.1-1997, SEC.1. Amended by P.L.162-2011, SEC.8.

IC 31-9-2-88.5
"Parenting time"

Sec. 88.5. "Parenting time" means the time set aside by a court order for a parent and child to spend together.

As added by P.L.68-2005, SEC.8.

IC 31-9-2-88.7
"Permanency roundtable"

Sec. 88.7. "Permanency roundtable", for purposes of IC 31-34-21-5.7 and IC 31-37-20-3, means an intervention designed to facilitate the permanency planning process for youth placed out-of-home by identifying solutions for permanency obstacles.

As added by P.L.48-2012, SEC.16.

IC 31-9-2-89
"Person"

Sec. 89. (a) "Person", for purposes of IC 31-19-19, IC 31-19-22, IC 31-19-25, and the juvenile law, means:

(1) a human being;
(2) a corporation;
(3) a limited liability company;
(4) a partnership;
(5) an unincorporated association; or
(6) a governmental entity.

(b) "Person", for purposes of section 44.5 of this chapter, means

an adult or a minor.

(c) "Person", for purposes of IC 31-27, means an individual who is at least twenty-one (21) years of age, a corporation, a partnership, a voluntary association, or other entity.

(d) "Person", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-13.

As added by P.L.1-1997, SEC.1. Amended by P.L.133-2002, SEC.23; P.L.145-2006, SEC.204; P.L.138-2007, SEC.24; P.L.42-2009, SEC.1; P.L.191-2011, SEC.7.

IC 31-9-2-90
"Person acting as parent"

Sec. 90. "Person acting as a parent", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-14.

As added by P.L.1-1997, SEC.1. Amended by P.L.138-2007, SEC.25.

IC 31-9-2-91
"Petitioner" or "obligee"

Sec. 91. (a) "Petitioner" or "obligee", for purposes of the Uniform Interstate Family Support Act under IC 31-18, has the meaning set forth in IC 31-18-1-14.

(b) "Petitioner", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-15.

As added by P.L.1-1997, SEC.1. Amended by P.L.138-2007, SEC.26.

IC 31-9-2-92
"Physical custody"

Sec. 92. "Physical custody", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-16.

As added by P.L.1-1997, SEC.1. Amended by P.L.138-2007, SEC.27.

IC 31-9-2-92.5
"Plan"

Sec. 92.5. (a) "Plan", for purposes of IC 31-26-6, has the meaning set forth in IC 31-26-6-1.

(b) "Plan", for purposes of IC 31-25-4, has the meaning set forth in IC 31-25-4-5.

As added by P.L.55-1997, SEC.11. Amended by P.L.145-2006, SEC.205; P.L.146-2008, SEC.546.

IC 31-9-2-93
"Pre-adoptive sibling"

Sec. 93. "Pre-adoptive sibling", for purposes of:

(1) IC 31-19-18;
(2) IC 31-19-16.5;
(3) IC 31-19-24; and

(4) IC 31-19-25.5;

means a person who would have been a sibling of an adoptee had the adoptee not been adopted, regardless of whether the person is born before or after the adoptee's adoption is finalized.

As added by P.L.1-1997, SEC.1. Amended by P.L.196-1997, SEC.3; P.L.2-1998, SEC.73; P.L.58-2009, SEC.1; P.L.191-2011, SEC.8.

IC 31-9-2-94
"Preliminary inquiry"

Sec. 94. "Preliminary inquiry", for purposes of IC 31-34 and IC 31-37, means an informal investigation into the facts and circumstances reported to the court.

As added by P.L.1-1997, SEC.1. Amended by P.L.197-1997, SEC.2; P.L.2-1998, SEC.74.

IC 31-9-2-95
"Premarital agreement"

Sec. 95. "Premarital agreement", for purposes of the Uniform Premarital Agreement Act under IC 31-11-3, has the meaning set forth in IC 31-11-3-2.

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

IC 31-9-2-95.5
Repealed

(Repealed by P.L.1-2007, SEC.248.)

IC 31-9-2-96
"Prior family law and juvenile law"

Sec. 96. "Prior family law and juvenile law", for purposes of IC 31-10, refers to the statutes that are repealed or amended in the recodification act of the 1997 regular session of the general assembly as the statutes existed before the effective date of the applicable or corresponding provision of the recodification act of the 1997 regular session of the general assembly.

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

IC 31-9-2-97
"Probation or parole"

Sec. 97. "Probation or parole", for purposes of the Interstate Compact on Juveniles under IC 31-37-23-1, has the meaning set forth in IC 31-37-23-1.

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

IC 31-9-2-97.4
"Professional health care provider"

Sec. 97.4. "Professional health care provider", for purposes of IC 31-19-22 and IC 31-19-25, has the meaning set forth in IC 34-6-2-117.

As added by P.L.191-2011, SEC.9.

IC 31-9-2-97.6
"Project"

Sec. 97.6. "Project", for purposes of IC 31-26-4, has the meaning set forth in IC 31-26-4-4.

As added by P.L.145-2006, SEC.207.

IC 31-9-2-98
"Property"

Sec. 98. (a) "Property", for purposes of the Uniform Premarital Agreement Act under IC 31-11-3, has the meaning set forth in IC 31-11-3-3.

(b) "Property", for purposes of IC 31-15, IC 31-16, and IC 31-17, means all the assets of either party or both parties, including:

(1) a present right to withdraw pension or retirement benefits;

(2) the right to receive pension or retirement benefits that are not forfeited upon termination of employment or that are vested (as defined in Section 411 of the Internal Revenue Code) but that are payable after the dissolution of marriage; and

(3) the right to receive disposable retired or retainer pay (as defined in 10 U.S.C. 1408(a)) acquired during the marriage that is or may be payable after the dissolution of marriage.

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

IC 31-9-2-99
"Prosecuting attorney"

Sec. 99. "Prosecuting attorney", for purposes of the juvenile law, means the prosecuting attorney or the prosecuting attorney's deputy of the judicial circuit where the juvenile court is located.

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

IC 31-9-2-99.3
"Provider"

Sec. 99.3. (a) "Provider", for purposes of IC 31-28-2 and IC 31-28-3, means an individual, a partnership, a corporation, or a governmental entity that is enrolled in the Medicaid program under rules adopted under IC 4-22-2 by the office of Medicaid policy and planning.

(b) "Provider", for purposes of IC 31-28-1, has the meaning set forth in IC 31-28-1-2.

(c) "Provider", for purposes of IC 31-27, means a person who operates a child caring institution, foster family home, group home, or child placing agency under IC 31-27.

As added by P.L.145-2006, SEC.208.

IC 31-9-2-99.7
"Public welfare"

Sec. 99.7. "Public welfare", for purposes of IC 31-25-3 and IC 31-25-4, means any form of public welfare or Social Security provided in IC 31-25-3 or IC 31-25-4. The term does not include direct township assistance as administered by township trustees

under IC 12-20.
As added by P.L.145-2006, SEC.209. Amended by P.L.146-2008, SEC.547; P.L.128-2012, SEC.29.

IC 31-9-2-100
"Putative father"

Sec. 100. "Putative father", for purposes of IC 31-19 and IC 31-35-1, means a male of any age who is alleged to be or claims that he may be a child's father but who:

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

As added by P.L.1-1997, SEC.1. Amended by P.L.200-1999, SEC.2.

IC 31-9-2-100.5
"Qualified medical practitioner"

Sec. 100.5. "Qualified medical practitioner", for purposes of IC 31-9-2 means the following:

(1) A physician licensed under IC 25-22.5.
(2) A physician assistant licensed under IC 25-27.5.
(3) A physical therapist licensed under IC 25-27.
(4) An advanced practice nurse licensed under IC 25-23.
(5) A chiropractor licensed under IC 25-10.
(6) A psychologist licensed under IC 25-33.

As added by P.L.162-2011, SEC.9.

IC 31-9-2-101
"Reason to believe"

Sec. 101. "Reason to believe", for purposes of IC 31-33, means evidence that, if presented to individuals of similar background and training, would cause the individuals to believe that a child was abused or neglected.
As added by P.L.1-1997, SEC.1.

IC 31-9-2-102
"Receiving state"

Sec. 102. "Receiving state", for purposes of the Interstate Compact on Juveniles under IC 31-37-23-1, has the meaning set forth in IC 31-37-23-1.
As added by P.L.1-1997, SEC.1.

IC 31-9-2-102.5
"Recipient"

Sec. 102.5. "Recipient", for purposes of IC 31-25-3 and IC 31-25-4, means a person who has received or is receiving assistance for the person or another person.
As added by P.L.145-2006, SEC.210. Amended by P.L.146-2008,

SEC.548; P.L.128-2012, SEC.30.

IC 31-9-2-102.7
"Record"

Sec. 102.7. "Record", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-17.

As added by P.L.138-2007, SEC.28.

IC 31-9-2-103
Repealed

(Repealed by P.L.131-2009, SEC.76.)

IC 31-9-2-103.6
"Region"

Sec. 103.6. "Region", for purposes of this title, refers to an area in Indiana designated as a region by the department. However, for purposes of:

(1) IC 31-25-2-20, the term refers to a region established under IC 31-25-2-20; and

(2) IC 31-26-6, the term refers to a service region established under IC 31-26-6-3.

As added by P.L.146-2008, SEC.549.

IC 31-9-2-103.7
"Regional services council"

Sec. 103.7. "Regional services council", for purposes of this title, refers to a regional services council established for a region under IC 31-26-6-4.

As added by P.L.146-2008, SEC.550.

IC 31-9-2-104
"Register"

Sec. 104. "Register", for purposes of the Uniform Interstate Family Support Act under IC 31-18, has the meaning set forth in IC 31-18-1-16.

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

IC 31-9-2-105
"Registering tribunal"

Sec. 105. "Registering tribunal", for purposes of the Uniform Interstate Family Support Act under IC 31-18, has the meaning set forth in IC 31-18-1-17.

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

IC 31-9-2-106
"Registry"

Sec. 106. "Registry", for purposes of IC 31-19-5, refers to the putative father registry established by IC 31-19-5-2.

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

SEC.211; P.L.138-2007, SEC.29.

IC 31-9-2-106.5
Repealed

(Repealed by P.L.123-2014, SEC.3.)

IC 31-9-2-107
"Relative"

Sec. 107. (a) "Relative", for purposes of IC 31-19-18, IC 31-19-22, and IC 31-19-25, means:

(1) an adoptive or whole blood related parent;
(2) a sibling; or
(3) a child.

(b) "Relative", for purposes of IC 31-34-3, means:

(1) a maternal or paternal grandparent;
(2) an adult aunt or uncle; or
(3) any other adult relative suggested by either parent of a child.

(c) "Relative", for purposes of IC 31-27, IC 31-28-5.8, IC 31-34-4, IC 31-34-19, and IC 31-37, means any of the following in relation to a child:

(1) A parent.
(2) A grandparent.
(3) A brother.
(4) A sister.
(5) A stepparent.
(6) A stepgrandparent.
(7) A stepbrother.
(8) A stepsister.
(9) A first cousin.
(10) An uncle.
(11) An aunt.
(12) Any other individual with whom a child has an established and significant relationship.

As added by P.L.1-1997, SEC.1. Amended by P.L.131-2009, SEC.8; P.L.191-2011, SEC.10; P.L.123-2014, SEC.4.

IC 31-9-2-107.5
"Relocating individual"

Sec. 107.5. "Relocating individual", for purposes of IC 31-17-2.2, means an individual who has or is seeking:

(1) custody of a child; or
(2) parenting time with a child;

and intends to move the individual's principal residence. The term does not include an individual granted visitation rights under IC 31-17-5.

As added by P.L.50-2006, SEC.4.

IC 31-9-2-107.7
"Relocation"

Sec. 107.7. "Relocation", for purposes of IC 31-17-2.2, means a

change in the primary residence of an individual for a period of at least sixty (60) days.
As added by P.L.50-2006, SEC.5.

IC 31-9-2-108
"Residence"
Sec. 108. "Residence", for purposes of the Interstate Compact on Juveniles under IC 31-37-23-1, has the meaning set forth in IC 31-37-23-1.
As added by P.L.1-1997, SEC.1.

IC 31-9-2-109
"Residence state"
Sec. 109. "Residence state", for purposes of the Interstate Compact on Adoption Assistance under IC 31-19-29, has the meaning set forth in IC 31-19-29-2.
As added by P.L.1-1997, SEC.1.

IC 31-9-2-109.5
"Residential placement committee"
Sec. 109.5. "Residential placement committee", for purposes of IC 31-25-2-23, means a committee that reviews the placement of youth in a child caring institution, a private secure facility, or a group home licensed by the department to ensure that the placement is in the least restrictive, most family like, and most appropriate setting available and close to the parent's home, consistent with the best interests and special needs of the child.
As added by P.L.48-2012, SEC.18.

IC 31-9-2-110
"Respondent" or "obligor"
Sec. 110. (a) "Respondent" or "obligor", for purposes of the Uniform Interstate Family Support Act under IC 31-18, has the meaning set forth in IC 31-18-1-15.
(b) "Respondent", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-18.
As added by P.L.1-1997, SEC.1. Amended by P.L.138-2007, SEC.30.

IC 31-9-2-111
"Responding state"
Sec. 111. "Responding state", for purposes of the Uniform Interstate Family Support Act under IC 31-18, has the meaning set forth in IC 31-18-1-18.
As added by P.L.1-1997, SEC.1.

IC 31-9-2-112
"Responding tribunal"
Sec. 112. "Responding tribunal", for purposes of the Uniform Interstate Family Support Act under IC 31-18, has the meaning set

forth in IC 31-18-1-19.
As added by P.L.1-1997, SEC.1.

IC 31-9-2-113
Repealed
(Repealed by P.L.131-2009, SEC.76.)

IC 31-9-2-113.5
"School"
Sec. 113.5. "School", for purposes of section 31 of this chapter and IC 31-39-2-13.8, means a:
(1) public school (including a charter school as defined in IC 20-24-1-4); or
(2) nonpublic school (as defined in IC 20-18-2-12);
that must comply with the education records privacy provisions of the federal Family Educational Rights and Privacy Act (20 U.S.C. 1232g) to be eligible to receive designated federal education funding.
As added by P.L.85-2004, SEC.50. Amended by P.L.1-2005, SEC.200; P.L.146-2006, SEC.13.

IC 31-9-2-113.7
"Secure detention facility"
Sec. 113.7. "Secure detention facility", for purposes of this title, has the meaning set forth in IC 31-40-1-1.5.
As added by P.L.146-2008, SEC.551.

IC 31-9-2-114
"Secure facility"
Sec. 114. "Secure facility", for purposes of the juvenile law, means a place of residence, other than a shelter care facility, that prohibits the departure of a child.
As added by P.L.1-1997, SEC.1.

IC 31-9-2-115
"Secure private facility"
Sec. 115. (a) Except as provided in subsection (b), "secure private facility", for purposes of the juvenile law, means the following:
(1) A facility that is licensed under IC 31-27 to operate as a secure private facility.
(2) A private facility that is licensed in another state to provide residential care and treatment to one (1) or more children in a secure facility other than a detention center, prison, jail, or similar correctional facility.
(b) "Secure private facility", for purposes of IC 31-27, means a secure private facility other than the following:
(1) A juvenile detention facility established under IC 31-31-8 or IC 31-31-9 (or IC 31-6-9-5 or IC 31-6-9.5 before their repeal).
(2) A facility operated by the department of correction.
(3) A county jail.
(4) A detention center operated by a county sheriff.

As added by P.L.1-1997, SEC.1. Amended by P.L.145-2006, SEC.213.

IC 31-9-2-116
"Sending state"

Sec. 116. "Sending state", for purposes of the Interstate Compact on Juveniles under IC 31-37-23-1, has the meaning set forth in IC 31-37-23-1.

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

IC 31-9-2-116.4
"Services"

Sec. 116.4. "Services", for purposes of IC 31-40-1, has the meaning set forth in IC 31-40-1-1.5.

As added by P.L.146-2008, SEC.552.

IC 31-9-2-116.5
"Services or items"

Sec. 116.5. "Services or items", for purposes of IC 31-36-3, has the meaning set forth in IC 31-36-3-1.

As added by P.L.133-2008, SEC.7.

IC 31-9-2-117
"Shelter care facility"

Sec. 117. (a) Except as provided in subsection (b), "shelter care facility", for purposes of the juvenile law, means a place of residence that:

(1) is licensed under the laws of any state; and

(2) is not locked to prevent a child's departure unless the administrator determines that locking is necessary to protect the child's health.

(b) "Shelter care facility", for purposes of IC 31-27-3 and IC 31-27-5, means a child caring institution or group home that provides temporary service twenty-four (24) hours a day for not more than twenty (20) consecutive days to a child:

(1) who is admitted to a residential facility on an emergency basis; and

(2) who is:

(A) receiving care and supervision under an order of a juvenile court;

(B) voluntarily placed by the parent or guardian of the child; or

(C) self-referred.

As added by P.L.1-1997, SEC.1. Amended by P.L.145-2006, SEC.214; P.L.48-2012, SEC.19; P.L.13-2013, SEC.75.

IC 31-9-2-117.3
"Sibling"

Sec. 117.3. "Sibling", for purposes of IC 31-19 and IC 31-28-5, means a brother or sister by blood, half-blood, or adoption.

As added by P.L.133-2008, SEC.8. Amended by P.L.58-2009, SEC.2.

IC 31-9-2-117.5
Repealed
(Repealed by P.L.48-2012, SEC.20.)

IC 31-9-2-118
"Spousal support order"
Sec. 118. "Spousal support order", for purposes of the Uniform Interstate Family Support Act under IC 31-18, has the meaning set forth in IC 31-18-1-20.
As added by P.L.1-1997, SEC.1.

IC 31-9-2-119
"State"
Sec. 119. (a) "State", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-19.
(b) "State", for purposes of the Uniform Interstate Family Support Act under IC 31-18, has the meaning set forth in IC 31-18-1-21.
(c) "State", for purposes of the Interstate Compact on Adoption Assistance under IC 31-19-29, has the meaning set forth in IC 31-19-29-2.
(d) "State", for purposes of the Interstate Compact on Juveniles under IC 31-37-23-1, has the meaning set forth in IC 31-37-23-1.
As added by P.L.1-1997, SEC.1. Amended by P.L.138-2007, SEC.31.

IC 31-9-2-120
"State department"
Sec. 120. "State department", for purposes of IC 31-19-5, refers to the state department of health.
As added by P.L.1-1997, SEC.1.

IC 31-9-2-121
"State registrar"
Sec. 121. "State registrar", for purposes of IC 31-19-18 through IC 31-19-25.5, means the person who:
(1) is in charge of the division of the state department of health that administers the system of vital records; and
(2) has charge of the files and records pertaining to vital records.
As added by P.L.1-1997, SEC.1. Amended by P.L.191-2011, SEC.11.

IC 31-9-2-121.5
Repealed
(Repealed by P.L.119-2013, SEC.7.)

IC 31-9-2-122
Repealed
(Repealed by P.L.1-2010, SEC.156.)

IC 31-9-2-123
"Substantiated"

Sec. 123. "Substantiated", when used in reference to a child abuse or neglect report made under IC 31-33, means a determination regarding the status of the report whenever facts obtained during an assessment of the report provide a preponderance of evidence that child abuse or neglect has occurred.

As added by P.L.1-1997, SEC.1. Amended by P.L.146-2006, SEC.14; P.L.131-2009, SEC.9.

IC 31-9-2-124
"Support enforcement agency"

Sec. 124. "Support enforcement agency", for purposes of the Uniform Interstate Family Support Act under IC 31-18, has the meaning set forth in IC 31-18-1-23.

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

IC 31-9-2-125
"Support order"

Sec. 125. (a) "Support order", for purposes of IC 31-16-15 and IC 31-16-16, means any judgment, decree, or order of child support, including medical support, issued by a court, in Indiana or another state, that has jurisdiction over the support order. The term includes orders issued under IC 31-14 through IC 31-17.

(b) "Support order", for purposes of the Uniform Interstate Family Support Act under IC 31-18, has the meaning set forth in IC 31-18-1-24.

As added by P.L.1-1997, SEC.1. Amended by P.L.103-2007, SEC.12.

IC 31-9-2-126
"Surrogate"

Sec. 126. "Surrogate", for purposes of IC 31-20, means a party to a surrogate agreement who agrees to bear or bears a child that is genetically related to:

(1) the party who agrees to bear or bears the child and an intended biological parent;

(2) an intended biological parent and a gamete donor who is not:

(A) an intended biological parent; and

(B) the spouse of the party who agrees to bear or bears the child; or

(3) two (2) intended biological parents of the child.

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

IC 31-9-2-127
"Surrogate agreement"

Sec. 127. "Surrogate agreement", for purposes of IC 31-20, means an agreement that is entered into before the birth of a child between a surrogate and one (1) or more parties and that is intended by the

parties at the time that the agreement is made to induce the surrogate to relinquish care, custody, and control over the child at birth to any of the following:

(1) An intended biological parent of the child.

(2) An intended biological parent of the child and another person who is not:

(A) genetically related to the child; and

(B) the surrogate's spouse.

(3) Two (2) intended biological parents of the child.

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

IC 31-9-2-128
Repealed

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

IC 31-9-2-129
"Team"

Sec. 129. "Team", for purposes of IC 31-33-3, refers to a community child protection team appointed under IC 31-33-3.

As added by P.L.1-1997, SEC.1. Amended by P.L.55-1997, SEC.12; P.L.146-2008, SEC.553.

IC 31-9-2-129.5
"Therapeutic foster family home"

Sec. 129.5. "Therapeutic foster family home", for purposes of IC 31-27, means a foster family home:

(1) that provides care to:

(A) a child; or

(B) an individual at least eighteen (18) but less than twenty (20) years of age receiving collaborative care under IC 31-28-5.8;

who has serious emotional disturbances, significant behavioral health needs and functional impairments, or developmental or physical disabilities;

(2) in which the child or individual receives treatment in a family home through an integrated array of services supervised and supported by qualified program staff from:

(A) the department of child services;

(B) a managed care provider that contracts with the division of mental health and addiction; or

(C) a licensed child placing agency; and

(3) that meets the additional requirements of IC 31-27-4-2.

As added by P.L.1-2007, SEC.190. Amended by P.L.143-2008, SEC.4; P.L.162-2011, SEC.10; P.L.48-2012, SEC.21.

IC 31-9-2-130
"Title IV-D agency"

Sec. 130. "Title IV-D agency" means:

(1) the bureau of child support established in the department of child services established by IC 31-25-3-1; or

(2) a designated agent of the department described in subdivision (1).

As added by P.L.1-1997, SEC.1. Amended by P.L.234-2005, SEC.84; P.L.145-2006, SEC.217.

IC 31-9-2-130.2
"Title IV-D case"

Sec. 130.2. "Title IV-D case", for purposes of IC 31-16-15, means a case arising under Title IV-D of the federal Social Security Act (42 U.S.C. 651 through 669).

As added by P.L.103-2007, SEC.13.

IC 31-9-2-130.3
"Transitional services plan"

Sec. 130.3. "Transitional services plan", for purposes of IC 31-25-2-21, has the meaning set forth in IC 31-25-2-21(a).

As added by P.L.143-2008, SEC.5.

IC 31-9-2-130.5
"Tribe"

Sec. 130.5. "Tribe", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-20.

As added by P.L.138-2007, SEC.32.

IC 31-9-2-131
"Tribunal"

Sec. 131. "Tribunal", for purposes of the Uniform Interstate Family Support Act under IC 31-18, has the meaning set forth in IC 31-18-1-25.

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

IC 31-9-2-132
"Unsubstantiated"

Sec. 132. "Unsubstantiated", for purposes of IC 31-33 and IC 31-39-8-4, means a determination regarding the status of a report made under IC 31-33 whenever facts obtained during an assessment of the report provide credible evidence that child abuse or neglect has not occurred.

As added by P.L.1-1997, SEC.1. Amended by P.L.131-2009, SEC.10.

IC 31-9-2-133
"Victim of child abuse or neglect"

Sec. 133. (a) "Victim of child abuse or neglect", for purposes of IC 31-32-11-1 and IC 31-33, refers to a child as described in:

(1) IC 31-34-1-1 through IC 31-34-1-5;
(2) IC 31-34-1-10; or
(3) IC 31-34-1-11;

regardless of whether the child needs care, treatment, rehabilitation, or the coercive intervention of a court.

(b) The term does not include a child who is alleged to be a victim of a sexual offense under IC 35-42-4-3 unless the alleged offense under IC 35-42-4-3 involves the fondling or touching of the buttocks, genitals, or female breasts.
As added by P.L.1-1997, SEC.1. Amended by P.L.48-2012, SEC.22.

IC 31-9-2-134
"Voluntary information"
Sec. 134. "Voluntary information", for purposes of IC 31-19-18, means the information transmitted to the state registrar as provided in IC 31-19-18-3.
As added by P.L.1-1997, SEC.1.

IC 31-9-2-134.5
"Wardship"
Sec. 134.5. (a) "Wardship", for purposes of the juvenile law, means the responsibility for temporary care and custody of a child by transferring the rights and obligations from the child's parent, guardian, or custodian to the person granted wardship. Except to the extent a right or an obligation is specifically addressed in the court order establishing wardship, the rights and obligations of the person granted wardship include making decisions concerning the:
(1) physical custody of the child;
(2) care and supervision of the child;
(3) child's visitation with parents, relatives, or other individuals; and
(4) medical care and treatment of the child.
(b) "Wardship" does not apply to requirements for consenting to an adoption under IC 31-19-9.
As added by P.L.146-2006, SEC.15.

IC 31-9-2-135
"Warrant"
Sec. 135. (a) "Warrant", for purposes of IC 31-25-3 and IC 31-25-4, means an instrument that is:
(1) the equivalent of a money payment; and
(2) immediately convertible into cash by the payee for the full face amount of the instrument.
(b) "Warrant", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-21.
As added by P.L.145-2006, SEC.218. Amended by P.L.103-2007, SEC.14; P.L.138-2007, SEC.33; P.L.146-2008, SEC.554; P.L.128-2012, SEC.31.

IC 31-9-2-136
"Youth service bureau"
Sec. 136. "Youth service bureau", for purposes of IC 31-26-1, has the meaning set forth in IC 31-26-1-2.
As added by P.L.145-2006, SEC.219.

IC 31-10

ARTICLE 10. GENERAL PROVISIONS

IC 31-10-1

Chapter 1. Effect of the Recodification Act of the 1997 Regular Session of the General Assembly

IC 31-10-1-1

Purpose of recodification act

Sec. 1. The purpose of the recodification act of the 1997 regular session of the general assembly is to recodify prior family law and juvenile law in a style that is clear, concise, and easy to interpret and apply. Except to the extent that:

(1) the recodification act of the 1997 regular session of the general assembly is amended to reflect the changes made in a provision of another bill that adds to, amends, or repeals a provision in the recodification act of the 1997 regular session of the general assembly; or

(2) the minutes of meetings of the code revision commission during 1996 expressly indicate a different purpose;

the substantive operation and effect of the prior family law and juvenile law continue uninterrupted as if the recodification act of the 1997 regular session of the general assembly had not been enacted.

As added by P.L.1-1997, SEC.2.

IC 31-10-1-2

Statutory construction

Sec. 2. Subject to section 1 of this chapter, sections 3 through 8 of this chapter shall be applied to the statutory construction of the recodification act of the 1997 regular session of the general assembly.

As added by P.L.1-1997, SEC.2.

IC 31-10-1-3

Effect on existing rights and liabilities

Sec. 3. (a) The recodification act of the 1997 regular session of the general assembly does not affect:

(1) any rights or liabilities accrued;

(2) any penalties incurred;

(3) any violations committed;

(4) any proceedings begun;

(5) any bonds, notes, loans, or other forms of indebtedness issued, incurred, or made;

(6) any tax levies made or authorized;

(7) any funds established;

(8) any patents issued;

(9) the validity, continuation, or termination of any contracts or leases executed;

(10) the validity, continuation, scope, termination, suspension, or revocation of:

(A) permits;

(B) licenses;
(C) certificates of registration;
(D) grants of authority; or
(E) limitations of authority; or

(11) the validity of court decisions entered regarding the constitutionality of any provision of the prior family law and juvenile law;

before the effective date of the recodification act of the 1997 regular session of the general assembly (July 1, 1997). Those rights, liabilities, penalties, offenses, proceedings, bonds, notes, loans, other forms of indebtedness, tax levies, funds, patents, contracts, leases, permits, licenses, certificates of registration, grants of authority, or limitations of authority continue and shall be imposed and enforced under prior family law and juvenile law as if the recodification act of the 1997 regular session of the general assembly had not been enacted.

(b) The recodification act of the 1997 regular session of the general assembly does not:

(1) extend, or cause to expire, a permit, license, certificate of registration, or other grant or limitation of authority; or

(2) in any way affect the validity, scope, or status of a license, permit, certificate of registration, or other grant or limitation of authority;

issued under the prior family law and juvenile law.

(c) The recodification act of the 1997 regular session of the general assembly does not affect the revocation, limitation, or suspension of a permit, license, certificate of registration, or other grant or limitation of authority based in whole or in part on violations of the prior family law and juvenile law or the rules adopted under the prior family law and juvenile law.

As added by P.L.1-1997, SEC.2.

IC 31-10-1-4

Recodification of prior family law and juvenile law

Sec. 4. The recodification act of the 1997 regular session of the general assembly shall be construed as a recodification of prior family law and juvenile law. Except as provided in section 1(1) and 1(2) of this chapter, if the literal meaning of the recodification act of the 1997 regular session of the general assembly would result in a substantive change in the prior family law and juvenile law, the difference shall be construed as a typographical, spelling, or other clerical error that must be corrected by:

(1) inserting, deleting, or substituting words, punctuation, or other matters of style in the recodification act of the 1997 regular session of the general assembly; or

(2) using any other rule of statutory construction;

as necessary or appropriate to apply the recodification act of the 1997 regular session of the general assembly in a manner that does not result in a substantive change in the law. The principle of statutory construction that a court must apply the literal meaning of an act if

the literal meaning of the act is unambiguous does not apply to the recodification act of the 1997 regular session of the general assembly to the extent that the recodification act of the 1997 regular session of the general assembly is not substantively identical to the prior family law and juvenile law.
As added by P.L.1-1997, SEC.2.

IC 31-10-1-5
References to repealed or replaced statutes

Sec. 5. Subject to section 8 of this chapter, a reference in a statute or rule to a statute that is repealed and replaced in the same or a different form in the recodification act of the 1997 regular session of the general assembly shall be treated after the effective date of the new provision as a reference to the new provision.
As added by P.L.1-1997, SEC.2.

IC 31-10-1-6
References to provisions of recodification act

Sec. 6. A citation reference in the recodification act of the 1997 regular session of the general assembly to another provision of the recodification act of the 1997 regular session of the general assembly shall be treated as including a reference to the provision of prior family law and juvenile law that is substantively equivalent to the provision of the recodification act of the 1997 regular session of the general assembly that is referred to by the citation reference.
As added by P.L.1-1997, SEC.2.

IC 31-10-1-7
References to rules

Sec. 7. (a) As used in the recodification act of the 1997 regular session of the general assembly, a reference to rules adopted under any provision of this title or under any other provision of the recodification act of the 1997 regular session of the general assembly refers to either:

(1) rules adopted under the recodification act of the 1997 regular session of the general assembly; or

(2) rules adopted under the prior family law and juvenile law until those rules have been amended, repealed, or superseded.

(b) Rules adopted under the prior family law and juvenile law continue in effect after June 30, 1997, until the rules are amended, repealed, or suspended.
As added by P.L.1-1997, SEC.2.

IC 31-10-1-8
References to provisions of prior family law and juvenile law

Sec. 8. (a) A reference in the recodification act of the 1997 regular session of the general assembly to a citation in the prior family law and juvenile law before its repeal is added in certain sections of the recodification act of the 1997 regular session of the general assembly only as an aid to the reader.

(b) The inclusion or omission in the recodification act of the 1997 regular session of the general assembly of a reference to a citation in the prior family law and juvenile law before its repeal does not affect:

(1) any rights or liabilities accrued;

(2) any penalties incurred;

(3) any violations committed;

(4) any proceedings begun;

(5) any bonds, notes, loans, or other forms of indebtedness issued, incurred, or made;

(6) any tax levies made;

(7) any funds established;

(8) any patents issued;

(9) the validity, continuation, or termination of contracts or leases executed;

(10) the validity, continuation, scope, termination, suspension, or revocation of:

(A) permits;

(B) licenses;

(C) certificates of registration;

(D) grants of authority; or

(E) limitations of authority; or

(11) the validity of court decisions entered regarding the constitutionality of any provision of the prior family law and juvenile law;

before the effective date of the recodification act of the 1997 regular session of the general assembly (July 1, 1997). Those rights, liabilities, penalties, offenses, proceedings, bonds, notes, loans, other forms of indebtedness, tax levies, funds, patents, contracts, leases, licenses, permits, certificates of registration, and other grants of authority continue and shall be imposed and enforced under prior family law and juvenile law as if the recodification act of the 1997 regular session of the general assembly had not been enacted.

(c) The inclusion or omission in the recodification act of the 1997 regular session of the general assembly of a citation to a provision in the prior family law and juvenile law does not affect the use of a prior conviction, violation, or noncompliance under the prior family law and juvenile law as the basis for revocation of a license, permit, certificate of registration, or other grant of authority under the recodification act of the 1997 regular session of the general assembly, as necessary or appropriate to apply the recodification act of the 1997 regular session of the general assembly in a manner that does not result in a substantive change in the law.

As added by P.L.1-1997, SEC.2.

IC 31-10-2

Chapter 2. General Policy Provisions

IC 31-10-2-1

Policy and purpose

Sec. 1. It is the policy of this state and the purpose of this title to:

(1) recognize the importance of family and children in our society;

(2) recognize the responsibility of the state to enhance the viability of children and family in our society;

(3) acknowledge the responsibility each person owes to the other;

(4) strengthen family life by assisting parents to fulfill their parental obligations;

(5) ensure that children within the juvenile justice system are treated as persons in need of care, protection, treatment, and rehabilitation;

(6) remove children from families only when it is in the child's best interest or in the best interest of public safety;

(7) provide for adoption as a viable permanency plan for children who are adjudicated children in need of services;

(8) provide a juvenile justice system that protects the public by enforcing the legal obligations that children have to society and society has to children;

(9) use diversionary programs when appropriate;

(10) provide a judicial procedure that:

(A) ensures fair hearings;

(B) recognizes and enforces the legal rights of children and their parents; and

(C) recognizes and enforces the accountability of children and parents;

(11) promote public safety and individual accountability by the imposition of appropriate sanctions; and

(12) provide a continuum of services developed in a cooperative effort by local governments and the state.

As added by P.L.1-1997, SEC.2. Amended by P.L.35-1998, SEC.3.

IC 31-11

ARTICLE 11. FAMILY LAW: MARRIAGE

IC 31-11-0.1

Chapter 0.1. Legislative Intent

IC 31-11-0.1-1

"Repealed statutes"

Sec. 1. As used in this chapter, "repealed statutes" refer to the following statutes repealed by P.L.180-1986:

(1) IC 16-1-37-7.
(2) IC 31-1-1.
(3) IC 31-1-2.
(4) IC 31-1-3.
(5) IC 31-1-4.
(6) IC 31-1-5.
(7) IC 31-1-6.
(8) IC 31-1-7.
(9) IC 31-1-8.
(10) IC 31-1-9.

As added by P.L.220-2011, SEC.488.

IC 31-11-0.1-2

P.L.180-1986 intended to be codification and restatement; no effect on rights, liabilities, penalties, violations, or proceedings before March 4, 1986

Sec. 2. (a) P.L.180-1986 is intended to be a codification and restatement of applicable or corresponding provisions of the repealed statutes. If P.L.180-1986 repeals and replaces a provision in the same form or in a restated form, the substantive operation and effect of that provision continue uninterrupted.

(b) P.L.180-1986 does not affect any:

(1) rights or liabilities accrued;
(2) penalties incurred;
(3) violations committed; or
(4) proceedings begun;

before March 4, 1986. Those rights, liabilities, penalties, offenses, and proceedings continue and shall be imposed and enforced under prior law as if P.L.180-1986 had not been enacted.

As added by P.L.220-2011, SEC.488.

IC 31-11-1

Chapter 1. Who May Marry

IC 31-11-1-1

Same sex marriages prohibited

Sec. 1. (a) Only a female may marry a male. Only a male may marry a female.

(b) A marriage between persons of the same gender is void in Indiana even if the marriage is lawful in the place where it is solemnized.

As added by P.L.1-1997, SEC.3. Amended by P.L.198-1997, SEC.1.

IC 31-11-1-2

Marriage to close relative prohibited; marriages between cousins; exceptions

Sec. 2. Two (2) individuals may not marry each other if the individuals are more closely related than second cousins. However, two (2) individuals may marry each other if the individuals are:

(1) first cousins; and

(2) both at least sixty-five (65) years of age.

As added by P.L.1-1997, SEC.3.

IC 31-11-1-3

Bigamous marriages prohibited

Sec. 3. Two (2) individuals may not marry each other if either individual has a husband or wife who is alive.

As added by P.L.1-1997, SEC.3.

IC 31-11-1-4

Minimum age for marriage

Sec. 4. Except as provided in section 5 or 6 of this chapter, two (2) individuals may not marry each other unless both individuals are at least eighteen (18) years of age.

As added by P.L.1-1997, SEC.3.

IC 31-11-1-5

Consent to underage marriage

Sec. 5. Two (2) individuals may marry each other if:

(1) both individuals are at least seventeen (17) years of age;

(2) each individual who is less than eighteen (18) years of age receives the consent required by IC 31-11-2; and

(3) the individuals are not prohibited from marrying each other for a reason set forth in this article.

As added by P.L.1-1997, SEC.3.

IC 31-11-1-6

Issuance of marriage license to underage persons; procedure; confidentiality of records

Sec. 6. (a) Two (2) individuals may marry each other if:

(1) the individuals are not prohibited from marrying for a reason

set forth in this article; and

(2) a circuit or superior court of the county of residence of either individual considers the information required to be submitted by subsection (b) and authorizes the clerk of the circuit court to issue the individuals a marriage license.

(b) A court may not authorize the clerk of the circuit court to issue a marriage license under subsection (a) unless:

(1) the individuals have filed with the court a verified petition that includes allegations that:

(A) the female is at least fifteen (15) years of age;

(B) the female is pregnant or is a mother;

(C) each of the individuals who is less than eighteen (18) years of age has received the consent required by IC 31-11-2;

(D) the male is at least fifteen (15) years of age and is either:

(i) the putative father of the expected child of the female; or

(ii) the father of the female's child; and

(E) the individuals desire to marry each other;

(2) the court has provided notice of the hearing required by this section to both parents of both petitioners or, if applicable to either petitioner:

(A) to the legally appointed guardian or custodian of a petitioner; or

(B) to one (1) parent of a petitioner if the other parent:

(i) is deceased;

(ii) has abandoned the petitioner;

(iii) is mentally incompetent;

(iv) is an individual whose whereabouts is unknown; or

(v) is a noncustodial parent who is delinquent in the payment of court ordered child support on the date the petition is filed;

(3) a hearing is held on the petition in which the petitioners and interested persons, including parents, guardians, and custodians, are given an opportunity to appear and present evidence; and

(4) the allegations of the petition filed under subdivision (1) have been proven.

(c) A court's authorization granted under subsection (a):

(1) constitutes part of the confidential files of the clerk of the circuit court; and

(2) may be inspected only by written permission of a circuit, superior, or juvenile court.

As added by P.L.1-1997, SEC.3.

IC 31-11-2

Chapter 2. Consent to Marry Required for Certain Individuals

IC 31-11-2-1

Necessity of consent to marry

Sec. 1. Except as provided in section 3 of this chapter, each individual who is less than eighteen (18) years of age must obtain consent under this chapter before the individual may marry.

As added by P.L.1-1997, SEC.3.

IC 31-11-2-2

Execution of consent to marry

Sec. 2. (a) A consent to marry under this chapter must be signed and verified in the presence of the clerk of the circuit court by:

(1) both parents, natural or adoptive, of the individual who is less than eighteen (18) years of age;

(2) the legally appointed guardian of the individual;

(3) one (1) parent of the individual if legal custody has been awarded to that parent by a judicial decree; or

(4) one (1) parent if the other parent:

(A) is deceased;

(B) has abandoned the individual who is less than eighteen (18) years of age;

(C) is physically or mentally incompetent to furnish the written consent; or

(D) is an individual whose whereabouts is unknown.

(b) If only one (1) parent signs the consent under subsection (a)(3) or (a)(4), the consent must contain a verified statement of fact that explains why only one (1) parent is required to sign the consent.

As added by P.L.1-1997, SEC.3.

IC 31-11-2-3

Issuance of marriage license to minor not obtaining required consent; procedure

Sec. 3. (a) An individual who is less than eighteen (18) years of age may marry if:

(1) the individual petitions the judge of the circuit or superior court of a county that is:

(A) the county of residence of the individual or the county of residence of the individual that the individual intends to marry; or

(B) a county that adjoins a county described in clause (A);

(2) the judge of the circuit or superior court directs the clerk of the circuit court to issue the individuals who intend to marry each other a license to marry without obtaining the consent required by section 1 of this chapter; and

(3) the individual is not prohibited from marrying for a reason set forth in IC 31-11-1.

(b) The petition made under subsection (a)(1) may be made in

writing or orally. The judge of the court may conduct investigations and hold hearings on the petition. The judge may, by written order, direct the clerk of the circuit court to issue a marriage license under subsection (a)(2) if the judge:

(1) considers the facts relevant to the issue presented by the petition;

(2) finds that good and sufficient reason for the order has been shown; and

(3) finds that the order is in the best interest of all persons concerned with the issues raised in the petition.

As added by P.L.1-1997, SEC.3.

IC 31-11-3

Chapter 3. Uniform Premarital Agreement Act

IC 31-11-3-1

Applicability of chapter

Sec. 1. This chapter applies to a premarital agreement executed on or after July 1, 1995.

As added by P.L.1-1997, SEC.3.

IC 31-11-3-2

"Premarital agreement" defined

Sec. 2. As used in this chapter, "premarital agreement" means an agreement between prospective spouses that:

(1) is executed in contemplation of marriage; and

(2) becomes effective upon marriage.

As added by P.L.1-1997, SEC.3.

IC 31-11-3-3

"Property" defined

Sec. 3. As used in this chapter, "property" means an interest, present or future, legal or equitable, vested or contingent, in real and personal property, including income and earnings.

As added by P.L.1-1997, SEC.3.

IC 31-11-3-4

Agreement must be in writing; consideration not required

Sec. 4. A premarital agreement must be in writing and signed by both parties. The agreement is enforceable without consideration.

As added by P.L.1-1997, SEC.3.

IC 31-11-3-5

Content; child support unaffected

Sec. 5. (a) Parties to a premarital agreement may contract with each other regarding the following matters:

(1) The rights and obligations of each of the parties in any property of either or both of them whenever and wherever acquired or located.

(2) The right to:

(A) buy;

(B) sell;

(C) use;

(D) exchange;

(E) abandon;

(F) lease;

(G) consume;

(H) expend;

(I) assign;

(J) create a security interest in;

(K) mortgage;

(L) encumber;

(M) dispose of; or
(N) otherwise manage and control;
property.
(3) The disposition of property upon:
(A) legal separation;
(B) dissolution of marriage;
(C) death; or
(D) the occurrence or nonoccurrence of any other event.
(4) The modification or elimination of spousal maintenance.
(5) The making of:
(A) a will;
(B) a trust; or
(C) other arrangement;
to carry out the provisions of the agreement.
(6) The ownership rights in and disposition of a death benefit from a life insurance policy.
(7) The choice of law governing the construction of the agreement.
(8) Any other matter not in violation of public policy or a statute imposing a criminal penalty, including the personal rights and obligations of the parties.

(b) A premarital agreement may not adversely affect the right of a child to support.

As added by P.L.1-1997, SEC.3.

IC 31-11-3-6
Effective date

Sec. 6. A premarital agreement becomes effective upon marriage.

As added by P.L.1-1997, SEC.3.

IC 31-11-3-7
Amendment or revocation must be in writing; consideration not required

Sec. 7. After marriage, a premarital agreement may be amended or revoked only by a written agreement signed by the parties. The amended agreement or the revocation is enforceable without consideration.

As added by P.L.1-1997, SEC.3.

IC 31-11-3-8
Enforceability of agreement

Sec. 8. (a) A premarital agreement is not enforceable if a party against whom enforcement is sought proves that:
(1) the party did not execute the agreement voluntarily; or
(2) the agreement was unconscionable when the agreement was executed.

(b) If:
(1) a provision of a premarital agreement modifies or eliminates spousal maintenance; and
(2) the modification or elimination causes one (1) party to the

agreement extreme hardship under circumstances not reasonably foreseeable at the time of the execution of the agreement;

a court, notwithstanding the terms of the agreement, may require the other party to provide spousal maintenance to the extent necessary to avoid extreme hardship.

(c) A court shall decide an issue of unconscionability of a premarital agreement as a matter of law.

As added by P.L.1-1997, SEC.3.

IC 31-11-3-9

Effect of void marriage

Sec. 9. If a marriage is determined to be void, an agreement that would otherwise have been a premarital agreement is enforceable only to the extent necessary to avoid an inequitable result.

As added by P.L.1-1997, SEC.3.

IC 31-11-3-10

Tolling of statute of limitations during marriage; equitable defenses

Sec. 10. Any statute of limitations applicable to an action asserting a claim for relief under a premarital agreement is tolled during the marriage of the parties to the agreement. However, equitable defenses limiting the time for enforcement, including laches and estoppel, are available to either party.

As added by P.L.1-1997, SEC.3.

IC 31-11-4

Chapter 4. Marriage Licenses and Certificates

IC 31-11-4-0.2

Effect of enactment of prior law

Sec. 0.2. The addition of IC 31-7-3-15.5 (before its repeal, now codified at section 17 of this chapter) by P.L.143-1994 applies to marriages performed before, on, and after March 8, 1994.

As added by P.L.220-2011, SEC.489.

IC 31-11-4-0.3

Legalization of court orders relating to certain marriages; issuance of duplicate license; state department of health shall accept order

Sec. 0.3. (a) If before March 8, 1994:

(1) an individual who solemnized a marriage failed to appropriately complete the marriage certificate or timely file the duplicate marriage certificate and marriage license with the clerk as required by IC 31-7-3-15 (before its repeal, now codified at section 16 of this chapter);

(2) a party to the marriage petitioned a circuit court with jurisdiction in the county in which the marriage occurred to affirm the marriage as of the date the marriage occurred; and

(3) the court issued an order affirming the marriage as of the date the marriage occurred;

the court order is legalized and has the same legal effect as a properly attested and filed marriage certificate.

(b) If the clerk of the court receives a court order affirming the marriage described in subsection (a), the clerk of the court shall issue a duplicate license with the date the marriage occurred to the party who sought declaratory relief.

(c) The state department of health shall accept the order described in subsection (a) as it accepts other marriage records received from county clerks.

As added by P.L.220-2011, SEC.490.

IC 31-11-4-0.4

Legalization of certain marriage licenses issued after August 31, 1984, and before April 16, 1985

Sec. 0.4. A marriage solemnized under the legal authority of a license that:

(1) was issued under the authority of a circuit, superior, or juvenile court after August 31, 1984, and before April 16, 1985; and

(2) would have been validly issued under IC 31-1-1-1 if that statute had been in effect;

is legalized if performed in conformity with all other statutes in effect at the time of the marriage.

As added by P.L.220-2011, SEC.491.

IC 31-11-4-1

Marriage license required to marry

Sec. 1. Before two (2) individuals may marry each other, the individuals must obtain a marriage license under this chapter.

As added by P.L.1-1997, SEC.3.

IC 31-11-4-2

Prerequisites for issuance of marriage license

Sec. 2. A clerk of a circuit court may not issue a marriage license unless the individuals who apply for the license have the authority to marry each other under IC 31-11-1.

As added by P.L.1-1997, SEC.3.

IC 31-11-4-3

County of residence or solemnization; place to obtain license

Sec. 3. Individuals who intend to marry must obtain a marriage license from the clerk of the circuit court of the county of residence of either of the individuals. If neither of the individuals who intends to marry is a resident of Indiana, the individuals must obtain the marriage license from the clerk of the circuit court of the county in which the marriage is to be solemnized.

As added by P.L.1-1997, SEC.3.

IC 31-11-4-4

Application; sexually transmitted diseases acknowledgment; religious objections

Sec. 4. (a) An application for a marriage license must be written and verified. The application must contain the following information concerning each of the applicants:

(1) Full name.

(2) Birthplace.

(3) Residence.

(4) Age.

(5) Names of dependent children.

(6) Full name, including the maiden name of a mother, last known residence, and, if known, the place of birth of:

(A) the birth parents of the applicant if the applicant is not adopted; or

(B) the adoptive parents of the applicant if the applicant is adopted.

(7) A statement of facts necessary to determine whether any legal impediment to the proposed marriage exists.

(8) Except as provided in subsection (e), an acknowledgment that both applicants must sign, affirming that the applicants have received the information described in section 5 of this chapter, including a list of test sites for the virus that causes AIDS (acquired immune deficiency syndrome). The acknowledgment required by this subdivision must be in the following form:

ACKNOWLEDGMENT

I acknowledge that I have received information regarding dangerous communicable diseases that are sexually transmitted and

a list of test sites for the virus that causes AIDS (acquired immune deficiency syndrome).

_____	_____
Signature of Applicant	Date
_____	_____
Signature of Applicant	Date

(b) The clerk of the circuit court shall record the application, including the license and certificate of marriage, in a book provided for that purpose. This book is a public record.

(c) The state department of health shall develop uniform forms for applications for marriage licenses. The state department of health shall furnish these forms to the circuit court clerks. The state department of health may periodically revise these forms.

(d) The state department of health shall require that the record of marriage form developed under subsection (c) must include each applicant's Social Security number. Any Social Security numbers collected on the record of marriage form shall be kept confidential and used only to carry out the purposes of the Title IV-D program. A person who knowingly or intentionally violates confidentiality regarding an applicant's Social Security numbers as described in this subsection commits a Class A infraction.

(e) Notwithstanding subsection (a), a person who objects on religious grounds is not required to:

(1) verify the application under subsection (a) by oath or affirmation; or

(2) sign the acknowledgment described in subsection (a)(8).

However, before the clerk of the circuit court may issue a marriage license to a member of the Old Amish Mennonite church, the bishop of that member must sign a statement that the information in the application is true.

(f) If a person objects on religious grounds to:

(1) verifying the application under subsection (a) by oath or affirmation; or

(2) signing the acknowledgment described in subsection (a)(8);

the clerk of the circuit court shall indicate that fact on the application for a marriage license.

As added by P.L.1-1997, SEC.3. Amended by P.L.213-1999, SEC.8; P.L.86-2002, SEC.5.

IC 31-11-4-5

Distribution of information concerning dangerous communicable diseases that are sexually transmitted

Sec. 5. (a) The clerk of the circuit court shall distribute to marriage license applicants written information or videotaped information approved by the AIDS advisory council of the state department of health concerning dangerous communicable diseases that are sexually transmitted.

(b) Written information and videotaped information distributed by each clerk of the circuit court under subsection (a) must provide current information on human immunodeficiency virus (HIV)

infection and other dangerous communicable diseases that are sexually transmitted. The information must include an explanation of the following:

(1) The etiology of dangerous communicable diseases that are sexually transmitted.

(2) The behaviors that create a high risk of transmission of such diseases.

(3) Precautionary measures that reduce the risk of contracting such diseases.

(4) The necessity for consulting medical specialists if infection is suspected.

(c) At the time of application for a marriage license, each clerk of the circuit court shall:

(1) provide the marriage license applicants with written information furnished under subsection (a) concerning dangerous communicable diseases that are sexually transmitted; or

(2) show the marriage license applicants videotaped information furnished under subsection (a) concerning dangerous communicable diseases that are sexually transmitted.

(d) In addition to the information provided to marriage license applicants under subsection (c), each clerk of the circuit court shall inform each marriage license applicant that the applicant may be tested on a voluntary basis for human immunodeficiency virus (HIV) infection by the applicant's private physician or at another testing site. The clerk shall provide the marriage applicants with a list of testing sites in the community.

(e) An applicant who objects to the written information or videotaped information on religious grounds is not required to receive the information.

(f) If materials required by this section are not prepared by other sources, the state department of health shall prepare the materials.

(g) The provider of the materials is responsible for all costs involved in the development, preparation, and distribution of the information required by this section. Except for the materials developed by the state, the state and county are not liable for the costs of materials used to implement this section and section 4 of this chapter.

As added by P.L.1-1997, SEC.3.

IC 31-11-4-6

Proof of birth date

Sec. 6. Each individual who applies for a marriage license must submit to the clerk of the circuit court:

(1) a certified copy of the individual's birth certificate;

(2) a certified copy of a judicial decree issued under IC 34-28-1 (or IC 34-4-3 before its repeal) that establishes the date of the individual's birth;

(3) any written evidence of the individual's date of birth that is satisfactory to the clerk; or

(4) a valid operator's license or other identification issued by a state that contains the individual's date of birth and current address.

As added by P.L.1-1997, SEC.3. Amended by P.L.1-1998, SEC.158.

IC 31-11-4-7

Birth date information required for issuance of marriage license

Sec. 7. A clerk of a circuit court or a deputy of the clerk may not issue a marriage license unless the application for the license is accompanied by the information required to be submitted by section 6 of this chapter.

As added by P.L.1-1997, SEC.3.

IC 31-11-4-8

Filing of consent to marry; entry of notice of filing

Sec. 8. If a written consent is required by IC 31-11-2, a clerk of a circuit court may not receive an application for a marriage license unless:

(1) the clerk has filed the consent form in the clerk's office; and

(2) the clerk has entered a notice of the filing on the marriage license docket.

As added by P.L.1-1997, SEC.3.

IC 31-11-4-9

Expiration of application

Sec. 9. An application for a marriage license expires sixty (60) days after the application is filed with the clerk of the circuit court unless a license to marry is issued under the application within that time.

As added by P.L.1-1997, SEC.3.

IC 31-11-4-10

Expiration of license

Sec. 10. A marriage license expires sixty (60) days after the license is issued unless a marriage is solemnized under the license within that time.

As added by P.L.1-1997, SEC.3.

IC 31-11-4-11

Conditions precluding issuance of marriage license

Sec. 11. A clerk of a circuit court may not issue a marriage license if either of the individuals who applies for the license:

(1) has been adjudged to be mentally incompetent unless the clerk finds that the adjudication is no longer in effect; or

(2) is under the influence of an alcoholic beverage or a narcotic drug.

As added by P.L.1-1997, SEC.3.

IC 31-11-4-12

Refusal to issue marriage license; notice; hearing; finding; costs

Sec. 12. (a) If it appears that two (2) individuals do not have a right to a marriage license, the clerk of the circuit court shall refuse to issue the license. If the clerk refuses to issue the license and if requested by the individuals, the clerk shall:

(1) certify the refusal to the circuit court; and

(2) notify the individuals of the clerk's actions.

(b) At the earliest practicable time, the court shall hold a hearing on whether a marriage license should be issued to the individuals. The court shall notify the individuals of the time and place of the hearing. The hearing shall be held without a jury and may be held in court or in chambers. The court's finding concerning the issuance of a license is final.

(c) The clerk of the circuit court shall:

(1) issue; or

(2) refuse to issue;

a marriage license in conformance with the court's order.

(d) The individuals who intend to marry are not liable for costs for any actions taken under this section.

As added by P.L.1-1997, SEC.3.

IC 31-11-4-13

Duty to present marriage license to individual authorized to solemnize marriages

Sec. 13. Individuals who intend to marry each other must present a marriage license that is issued under this chapter to an individual who is authorized by IC 31-11-6 to solemnize marriages.

As added by P.L.1-1997, SEC.3.

IC 31-11-4-14

Marriage license as authorization of solemnization of marriage

Sec. 14. A marriage license that is issued under this chapter is the legal authority for an individual who is authorized to solemnize marriages to marry two (2) individuals.

As added by P.L.1-1997, SEC.3.

IC 31-11-4-15

Marriage certificates

Sec. 15. Each marriage license must have two (2) certificates attached to the license. The state department of health shall prescribe a uniform form for these certificates. One (1) certificate must be marked "Original" and one (1) certificate must be marked "Duplicate". Each certificate must contain the following:

MARRIAGE CERTIFICATE

I _____ (name) certify that on _____ (date) at _____ in _____ County, Indiana, _____ of _____ County, _____ (state) and _____ of _____ County, _____ (state) were married by me as authorized under a marriage license that was issued by the Clerk of the Circuit Court of _____ County, Indiana, dated _____.

Signed

(OFFICIAL DESIGNATION)
As added by P.L.1-1997, SEC.3.

IC 31-11-4-16
Completion, disposition, filing, and recording of marriage certificates and marriage licenses

Sec. 16. (a) The individual who solemnizes a marriage shall do the following:

(1) Complete the original and duplicate certificates described in section 15 of this chapter.

(2) Give the original certificate to the individuals who married each other.

(3) Not later than thirty (30) days after the date of the marriage, file the duplicate certificate and the license to marry with the clerk of the circuit court who issued the marriage license.

(b) The clerk of the circuit court shall record the duplicate certificate and license to marry as prescribed by the state department of health under section 15 of this chapter.

(c) If a duplicate certificate and marriage license are filed with a clerk of the circuit court who did not issue the marriage license, the clerk shall return the certificate and license to the clerk of the circuit court who issued the license.
As added by P.L.1-1997, SEC.3.

IC 31-11-4-17
Failure to file marriage certificates and marriage licenses; declaratory order upon proof of marriage; legal effect; recording requirements

Sec. 17. (a) If the individual who solemnizes a marriage fails to:

(1) appropriately complete the certificate of marriage; or

(2) timely file the duplicate marriage certificate and marriage license with the clerk of the circuit court;

as required by section 16 of this chapter, either party to the marriage may file for a declaratory judgment in the circuit court with jurisdiction in the county in which the marriage occurred.

(b) Upon proof by oral testimony or affidavits, the court may issue a declaratory order that:

(1) the marriage of the individuals listed was solemnized before the date the original marriage license expired;

(2) any error by the party who solemnized the marriage does not affect the validity of the marriage; and

(3) the clerk of the circuit court shall:

(A) accept the order for filing; and

(B) issue a duplicate marriage license with the date the marriage occurred to the party who sought declaratory relief.

(c) A court order issued under this section has the same legal effect as a properly attested and filed marriage certificate.

(d) The clerk of the circuit court shall record the duplicate license and court order and forward a copy of the marriage records to the state department of health on at least a monthly basis.

As added by P.L.1-1997, SEC.3.

IC 31-11-4-18
Records of marriage; paper or electronic forms; index

Sec. 18. (a) The clerk of the circuit court shall forward records of marriage to the state department of health on at least a monthly basis. A clerk:

(1) may forward a record of marriage to the state department of health in:

(A) a paper form; or

(B) an electronic form by using:

(i) an automated system developed by the judicial technology and automation project; or

(ii) another automated system approved by the state department of health; and

(2) who forwards a record of marriage to the state department of health in an electronic form is not required to forward the record of marriage to the state department of health in a paper form.

(b) The state department of health shall:

(1) prescribe a form for recording marriages;

(2) accept a court order under section 17 of this chapter (or IC 31-7-3-15.5 before its repeal) in place of a marriage certificate;

(3) prepare an annual index of all marriages solemnized in Indiana and furnish at least one (1) index to the Indiana state library; and

(4) furnish reports on records of marriage published by the state department of health to the Indiana state library.

As added by P.L.1-1997, SEC.3. Amended by P.L.22-2012, SEC.1.

IC 31-11-4-19
Public inspection of statistical data from marriage records

Sec. 19. Statistical data derived from records of marriages are open to public inspection.

As added by P.L.1-1997, SEC.3.

IC 31-11-5
Repealed

(Repealed by P.L.41-2005, SEC.2.)

IC 31-11-6

Chapter 6. Authority to Solemnize Marriages

IC 31-11-6-1

Persons authorized to solemnize marriages

Sec. 1. Marriages may be solemnized by any of the following:

(1) A member of the clergy of a religious organization (even if the cleric does not perform religious functions for an individual congregation), such as a minister of the gospel, a priest, a bishop, an archbishop, or a rabbi.

(2) A judge.

(3) A mayor, within the mayor's county.

(4) A clerk or a clerk-treasurer of a city or town, within a county in which the city or town is located.

(5) A clerk of the circuit court.

(6) The Friends Church, in accordance with the rules of the Friends Church.

(7) The German Baptists, in accordance with the rules of their society.

(8) The Bahai faith, in accordance with the rules of the Bahai faith.

(9) The Church of Jesus Christ of Latter Day Saints, in accordance with the rules of the Church of Jesus Christ of Latter Day Saints.

(10) An imam of a masjid (mosque), in accordance with the rules of the religion of Islam.

As added by P.L.1-1997, SEC.3. Amended by P.L.34-1999, SEC.1.

IC 31-11-7

Chapter 7. Rights and Liabilities Incident to Marriage

IC 31-11-7-1

Abolition of legal disabilities of married women to make contracts

Sec. 1. All legal disabilities of a married woman to make contracts are abolished.

As added by P.L.1-1997, SEC.3.

IC 31-11-7-2

Married women's property rights

Sec. 2. A married woman has the same rights concerning real and personal property that an unmarried woman has.

As added by P.L.1-1997, SEC.3.

IC 31-11-7-3

Tort liability of married women

Sec. 3. A married woman is liable for torts committed by the woman.

As added by P.L.1-1997, SEC.3.

IC 31-11-7-4

Husband's immunity for wife's contracts or torts

Sec. 4. A husband is not liable for the contracts or torts of his wife.

As added by P.L.1-1997, SEC.3.

IC 31-11-8
Chapter 8. Void Marriages

IC 31-11-8-0.3
Legalization of certain marriages between first cousins
Sec. 0.3. Marriages between first cousins that were solemnized before April 9, 1907, are legalized.
As added by P.L.220-2011, SEC.492.

IC 31-11-8-1
Marriages void without legal proceedings
Sec. 1. A marriage that is solemnized in Indiana and is void under section 2, 3, or 5 of this chapter is void without any legal proceedings.
As added by P.L.1-1997, SEC.3.

IC 31-11-8-2
Prior existing marriage
Sec. 2. A marriage is void if either party to the marriage had a wife or husband who was living when the marriage was solemnized.
As added by P.L.1-1997, SEC.3.

IC 31-11-8-3
Marriage to close relative; marriages between cousins; exceptions
Sec. 3. A marriage is void if the parties to the marriage are more closely related than second cousins. However, a marriage is not void if:
(1) the marriage was solemnized after September 1, 1977;
(2) the parties to the marriage are first cousins; and
(3) both of the parties were at least sixty-five (65) years of age when the marriage was solemnized.
As added by P.L.1-1997, SEC.3.

IC 31-11-8-4
Mentally incompetent persons
Sec. 4. A marriage is void if either party to the marriage was mentally incompetent when the marriage was solemnized.
As added by P.L.1-1997, SEC.3.

IC 31-11-8-5
Common law marriages entered into after January 1, 1958
Sec. 5. A marriage is void if the marriage is a common law marriage that was entered into after January 1, 1958.
As added by P.L.1-1997, SEC.3.

IC 31-11-8-6
Foreign marriage solemnized between Indiana residents to evade Indiana law
Sec. 6. A marriage is void if the parties to the marriage:
(1) are residents of Indiana;

(2) had their marriage solemnized in another state with the intent to:

(A) evade IC 31-11-4-4 or IC 31-11-4-11 (or IC 31-7-3-3 or IC 31-7-3-10 before their repeal); and

(B) subsequently return to Indiana and reside in Indiana; and

(3) without having established residence in another state in good faith, return to Indiana and reside in Indiana after the marriage is solemnized.

As added by P.L.1-1997, SEC.3.

IC 31-11-9

Chapter 9. Voidable Marriages

IC 31-11-9-1

Actions to annul voidable marriages

Sec. 1. Actions to annul voidable marriages under this chapter are governed by IC 31-11-10.

As added by P.L.1-1997, SEC.3.

IC 31-11-9-2

Incapacity to marry because of age or mental incompetence

Sec. 2. A marriage is voidable if a party to the marriage was incapable because of age or mental incompetency of contracting the marriage.

As added by P.L.1-1997, SEC.3.

IC 31-11-9-3

Fraud

Sec. 3. A marriage is voidable if the marriage was brought about through fraud on the part of one (1) of the parties to the marriage.

As added by P.L.1-1997, SEC.3.

IC 31-11-10

Chapter 10. Actions to Annul Voidable Marriages

IC 31-11-10-0.3

Legalization of certain judgments for annulment of marriage

Sec. 0.3. A judgment for annulment of marriage that was:

(1) entered before February 27, 1937;

(2) granted because of fraud on the part of a party to the marriage; and

(3) granted in a case in which the defendant received service by publication;

is legalized.

As added by P.L.220-2011, SEC.493.

IC 31-11-10-1

Action by party incapable of contracting marriage; petition filed by guardian

Sec. 1. (a) This section applies to a marriage that is voidable under IC 31-11-9-2 on the ground that a party to the marriage was incapable because of age or mental incompetency of contracting the marriage.

(b) The incapable party described in subsection (a) may file an action to annul the marriage in a court that has jurisdiction over the action under section 3 of this chapter.

(c) If a guardian of an incapacitated person is filing a petition for annulment of a marriage on behalf of the incapacitated person, the petition for annulment must set forth the name and address of the guardian.

(d) If a guardian of an incapacitated person files a petition for annulment of a marriage on behalf of the incapacitated person, the guardian shall file with the petition a copy of the court order granting authority to petition for annulment of marriage described in IC 29-3-9-12.2.

As added by P.L.1-1997, SEC.3. Amended by P.L.83-2014, SEC.11.

IC 31-11-10-2

Action by victim of fraud; defense

Sec. 2. (a) This section applies to a marriage that is voidable under IC 31-11-9-3 on the ground that the marriage was brought about through fraud on the part of one (1) of the parties to the marriage.

(b) The alleged victim of fraud described in subsection (a) may file an action to annul the marriage in a court that has jurisdiction over the action under section 3 of this chapter.

(c) It is a defense in an action brought under this section that, after the discovery of the alleged fraud, the alleged victim continued to cohabit with the other party to the marriage.

As added by P.L.1-1997, SEC.3.

IC 31-11-10-3

Jurisdiction

Sec. 3. A circuit or superior court has jurisdiction over actions to

annul voidable marriages under this chapter.
As added by P.L.1-1997, SEC.3.

IC 31-11-10-4
Procedure; filing in county of guardian's residence

Sec. 4. (a) An action to annul a voidable marriage under this chapter must be conducted in accordance with IC 31-15.

(b) If a court has authorized a guardian to file an action to annul a marriage on behalf of an incapacitated person under IC 29-3-9-12.2, the guardian may file an action to annul a marriage in the guardian's county of residence if the guardian has resided in that county for at least three (3) months immediately preceding the filing of the action.
As added by P.L.1-1997, SEC.3. Amended by P.L.83-2014, SEC.12.

IC 31-11-11
Chapter 11. Offenses

IC 31-11-11-1
False information in marriage license application
Sec. 1. A person who knowingly furnishes false information to a clerk of the circuit court when the person applies for a marriage license under IC 31-11-4 commits a Level 6 felony.
As added by P.L.1-1997, SEC.3. Amended by P.L.158-2013, SEC.307.

IC 31-11-11-2
False information in verified written consent
Sec. 2. A person who knowingly furnishes false information in a verified written consent under IC 31-11-2 commits a Level 6 felony.
As added by P.L.1-1997, SEC.3. Amended by P.L.158-2013, SEC.308.

IC 31-11-11-3
False information concerning applicant's physical condition
Sec. 3. An applicant for a marriage license who knowingly furnishes false information concerning the applicant's physical condition to the clerk of a circuit court commits a Level 6 felony.
As added by P.L.1-1997, SEC.3. Amended by P.L.41-2005, SEC.1; P.L.158-2013, SEC.309.

IC 31-11-11-4
Acceptance of false information concerning applicant's physical condition
Sec. 4. A clerk of the circuit court or a deputy of the clerk who issues a license to marry, knowing that the information concerning the physical condition of an applicant is false, commits a Class B misdemeanor.
As added by P.L.1-1997, SEC.3.

IC 31-11-11-5
Solemnization of marriage in violation of this article
Sec. 5. A person who:
(1) is authorized to solemnize marriages by IC 31-11-6; and
(2) solemnizes a marriage in violation of this article;
commits a Class C infraction.
As added by P.L.1-1997, SEC.3.

IC 31-11-11-6
Attempt to solemnize marriage by person not authorized to solemnize marriages
Sec. 6. A person who:
(1) attempts to solemnize a marriage; and
(2) is not authorized to solemnize marriages by IC 31-11-6;
commits a Class B misdemeanor.

As added by P.L.1-1997, SEC.3.

IC 31-11-11-7
Solemnization of marriage between persons prohibited from marrying

Sec. 7. A person who knowingly solemnizes a marriage of individuals who are prohibited from marrying by IC 31-11-1 commits a Class B misdemeanor.
As added by P.L.1-1997, SEC.3.

IC 31-11-11-8
Failure to timely file marriage license and duplicate marriage certificate

Sec. 8. A person who:

(1) solemnizes a marriage; and

(2) fails to file the marriage license and a duplicate marriage certificate with the clerk of the circuit court not later than ninety (90) days after the date the marriage was solemnized;

commits a Class C infraction.
As added by P.L.1-1997, SEC.3.

IC 31-12

ARTICLE 12. FAMILY LAW: DOMESTIC RELATIONS COURTS

IC 31-12-1

Chapter 1. Domestic Relations Courts; Provision of Counseling Services

IC 31-12-1-1

Determination of necessity to establish court

Sec. 1. (a) This chapter applies only in judicial circuits in which the judges of the superior and circuit courts determine that:

(1) the social conditions in the county; and

(2) the number of domestic relations cases in the courts;

make the procedures provided in this chapter necessary for the full and proper consideration of the cases and to carry out this chapter.

(b) The majority of the judges of the superior and circuit courts in each judicial circuit shall make the determination under subsection (a) annually in January.

As added by P.L.1-1997, SEC.4.

IC 31-12-1-2

Designation of judges; sessions of court

Sec. 2. In judicial circuits having at least three (3) judges of the superior court, the judges of the superior and circuit courts may annually, in January, designate one (1) or more of the judges to hear all cases under this chapter. The designated judges shall hold as many sessions of court each week as are necessary for the prompt disposition of the court's business.

As added by P.L.1-1997, SEC.4.

IC 31-12-1-3

Designation of court

Sec. 3. Each court exercising the jurisdiction conferred by this chapter may be designated as a domestic relations court.

As added by P.L.1-1997, SEC.4.

IC 31-12-1-4

Jurisdiction; supplemental powers

Sec. 4. (a) Whenever a domestic relations court is established under this chapter, the domestic relations court has jurisdiction over all proceedings in the following causes of action:

(1) Dissolution of marriage.

(2) Separation.

(3) Annulment.

(4) Child support.

(5) Paternity.

(b) A domestic relations court has jurisdiction that other courts in Indiana have over the causes of action listed in subsection (a). A domestic relations court may dispose of the causes of action listed in

subsection (a) in the manner provided by statute for those causes of action. However, this chapter grants supplemental powers to domestic relations courts to aid the court in determining the difference between the parties and in protecting the welfare and rights of the child or children involved.
As added by P.L.1-1997, SEC.4. Amended by P.L.197-1997, SEC.3.

IC 31-12-1-5
Absence or inability of judge to perform duties; appointment of substitute

Sec. 5. (a) If a judge appointed to act as judge of the domestic relations court is:

(1) on vacation;
(2) absent; or
(3) for any reason unable to perform the judge's duties;

a majority of the judges of the superior and circuit courts may appoint another of the judges to act as judge of the domestic relations court during that period.

(b) A judge appointed under subsection (a) has all the powers and authority of the judge of the domestic relations court in cases under this chapter.
As added by P.L.1-1997, SEC.4.

IC 31-12-1-6
Duty of clerk of judicial circuit court to file cases in domestic relations court

Sec. 6. The clerk of the courts in a judicial circuit in which a domestic relations court is established shall file all cases listed in section 4(a) of this chapter in the domestic relations court.
As added by P.L.1-1997, SEC.4.

IC 31-12-1-7
Forms of action; caption

Sec. 7. The forms of action for:

(1) dissolution of marriage;
(2) annulment;
(3) separation;
(4) child support; or
(5) paternity;

that are available to the parties under statute are the forms of action in any domestic relations court established under this chapter. However, the caption of the cause must show that the cause is filed in the Domestic Relations Court of _____ County.
As added by P.L.1-1997, SEC.4. Amended by P.L.197-1997, SEC.4.

IC 31-12-1-8
Petition invoking jurisdiction for reconciliation or amicable settlement

Sec. 8. Before the filing of an action for dissolution of marriage, annulment, separation, child support, or paternity, either spouse or

both spouses may file in the domestic relations court a petition invoking the jurisdiction of the court for:

(1) the purpose of preserving the marriage by effecting a reconciliation between the parties; or

(2) the amicable settlement of the controversy between the spouses so as to avoid further litigation over the issue involved.

As added by P.L.1-1997, SEC.4. Amended by P.L.197-1997, SEC.5.

IC 31-12-1-9

Appointment of referees, counselors, assistants, and clerks; compensation; expenses

Sec. 9. (a) In each of the judicial circuits in which this chapter applies, judges of the superior and circuit courts may appoint one (1) or more professionally qualified domestic relations:

(1) referees;

(2) counselors;

(3) assistants; and

(4) clerks;

as are considered necessary to serve at the pleasure of the appointing judge.

(b) The appointing judge shall fix the compensation and expense of the personnel appointed under this chapter, which shall be paid out of the county general fund.

As added by P.L.1-1997, SEC.4.

IC 31-12-1-10

Referee's duties

Sec. 10. A domestic relations referee shall perform such duties as the judge of the domestic relations court assigns to the referee.

As added by P.L.1-1997, SEC.4.

IC 31-12-1-11

Counselor's duties

Sec. 11. A domestic relations counselor shall, when directed by the judge of any domestic relations court, perform the following duties in domestic relations cases and such other duties as the judge of the domestic relations court assigns to the counselor:

(1) The domestic relations counselor shall promptly receive all requests for counseling services for the purpose of disposing of the requests under this chapter.

(2) Whenever a petition is filed and either party requests counseling, the domestic relations counselor shall, in the counselor's discretion:

(A) interview and counsel each plaintiff and, if feasible and desirable, each defendant; or

(B) confer with both jointly;

for the purpose of reconciling the differences between the parties and making recommendations to the judge of the domestic relations court.

(3) In each case assigned to the domestic relations court in

which the custody, support, or welfare of a child is involved, in order to protect and conserve the interest of the child, the domestic relations counselor shall investigate and report upon:

(A) the status and condition of the parties to the cause;

(B) the status and condition of the child;

(C) the provisions made or to be made for the protection of the welfare of the child; and

(D) any other matter pertaining to the marriage that may affect the welfare of the child.

(4) Upon request of the domestic relations court judge, the counselor shall:

(A) make post-dissolution studies of problems arising in connection with child custody, support, and parenting time;

(B) provide assistance to the parties in the enforcement of support orders; and

(C) cause reports to be made and statistics to be compiled, which records and reports shall be kept as the judge of the domestic relations court may direct.

(5) The counselor shall provide such supervision in connection with the exercise of the jurisdiction of the domestic relations court as the judge may order.

As added by P.L.1-1997, SEC.4. Amended by P.L.68-2005, SEC.9.

IC 31-12-1-12

Director of domestic relations counseling

Sec. 12. The judge of a domestic relations court may appoint from among the domestic relations counselors one (1) counselor to act as director of domestic relations counseling. The director shall:

(1) be responsible for receiving all applications and assignments for counseling under the order of the court and assign the applications to domestic relations counselors for further counseling and proceedings under this chapter;

(2) cause reports to be made, statistics to be filed, and records to be kept as the judge of the domestic relations court directs; and

(3) act in a supervisory capacity to all other domestic relations counselors so that the counselors promptly and properly act upon all requests for counseling service.

As added by P.L.1-1997, SEC.4.

IC 31-12-1-13

Counseling service not condonation of acts constituting grounds for dissolution of marriage

Sec. 13. The:

(1) use of counseling service provided under this chapter; and

(2) action taken that has been recommended by the domestic relations counselor;

is not condonation on the part of either spouse of acts that may constitute grounds for dissolution of the marriage.

As added by P.L.1-1997, SEC.4.

IC 31-12-1-14
Private counseling proceedings; confidential communications

Sec. 14. (a) All counseling:

(1) proceedings;
(2) interviews; and
(3) conferences;

shall be held in private.

(b) All communications, verbal or written, and any record made as a result of the communications from the parties to the judge, the domestic relations counselor, or other person designated or recommended under this chapter in a counseling or conciliation proceeding:

(1) are considered to be made in confidence; and
(2) are not admissible and may not be used for any purpose in:
    (A) any divorce or dissolution of marriage hearing; or
    (B) any other proceeding.

As added by P.L.1-1997, SEC.4.

IC 31-12-1-15
Setting cause for hearing

Sec. 15. If after a reasonable time it appears that the use of counseling services under this chapter is not effective, the court shall, upon application of either party, set the cause for hearing on the court's trial docket.

As added by P.L.1-1997, SEC.4.

IC 31-12-1-16
Court of record

Sec. 16. (a) This section does not apply to counseling proceedings, interviews, conferences, and communications that are confidential under section 14 of this chapter.

(b) A domestic relations court established under this chapter is a court of record and all proceedings in the court must be of record.

As added by P.L.1-1997, SEC.4.

IC 31-12-1.5

Chapter 1.5. Other Domestic Relations Courts

IC 31-12-1.5-1

Determination of necessity to establish court

Sec. 1. (a) This chapter applies in a judicial circuit in which a majority of the judges of the circuit and superior courts determine that:

(1) the social conditions of the county; and

(2) the number of domestic relations cases in the courts;

make the procedures described in IC 31-12-1 necessary for the full and proper consideration of domestic relations cases.

(b) The judges shall make the determination described in subsection (a) annually in January.

As added by P.L.80-2006, SEC.2.

IC 31-12-1.5-2

Designation of judges; sessions of court

Sec. 2. If the judges of a judicial circuit make the determination described in section 1 of this chapter, the judges shall designate by joint order one (1) or more of the judges in the judicial circuit to hear cases under this chapter. A judge designated under this section may hold as many sessions each week as are necessary for the prompt disposition of the court's business.

As added by P.L.80-2006, SEC.2.

IC 31-12-1.5-3

Designation of court

Sec. 3. A court exercising the jurisdiction described in section 2 of this chapter may be designated as a domestic relations court.

As added by P.L.80-2006, SEC.2.

IC 31-12-1.5-4

Jurisdiction; supplemental powers

Sec. 4. A court designated as a domestic relations court under section 3 of this chapter has the jurisdiction and special powers described in IC 31-12-1-4. A court designated as a domestic relations court under this chapter, IC 31-12-1, or IC 31-12-2 retains jurisdiction to hear any type of case the court had jurisdiction to hear before the court was designated as a domestic relations court.

As added by P.L.80-2006, SEC.2.

IC 31-12-1.5-5

Absence or inability of judge to perform duties; appointment of substitute

Sec. 5. (a) If a judge appointed to act as judge of the domestic relations court is:

(1) on vacation;

(2) absent; or

(3) for any reason unable to perform the judge's duties;

a majority of the judges of the superior and circuit courts may appoint another of the judges to act as judge of the domestic relations court during that period.

(b) A judge appointed under subsection (a) has all the powers and authority of the regularly presiding judge of the domestic relations court.

As added by P.L.80-2006, SEC.2.

IC 31-12-1.5-6

Application of domestic relations courts provisions

Sec. 6. IC 31-12-1-6 through IC 31-12-1-16 apply to a domestic relations court established under this chapter.

As added by P.L.80-2006, SEC.2.

IC 31-12-1.5-7

Domestic relations counseling appointments

Sec. 7. (a) The judges of the circuit and superior courts may appoint:

(1) a director of domestic relations counseling; or

(2) at least one (1) counselor under this chapter or under IC 31-12-1.

(b) A counselor described in subsection (a)(2) or the organization led by the director described in subsection (a)(1) is designated as a domestic relations counseling bureau.

As added by P.L.80-2006, SEC.2.

IC 31-12-2

Chapter 2. Establishment of Domestic Relations Counseling Bureau in Certain Counties; Provision of Counseling Services

IC 31-12-2-1

Application of law

Sec. 1. This chapter applies only to the following:

(1) A judicial circuit in which there is located a consolidated city and the judges of the superior court and the judge of the circuit court determine that the social conditions in the county and the number of domestic relations cases in the courts make the procedures provided under this chapter necessary for the full and proper consideration of the cases and the effectuation of the purposes of this chapter.

(2) A county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) in which the judge of the circuit court determines that the social conditions in the county and the number of domestic relations cases in the county's courts make the procedures provided under this chapter necessary for the full and proper consideration of the cases and the effectuation of the purposes of this chapter.

As added by P.L.1-1997, SEC.4.

IC 31-12-2-2

Creation

Sec. 2. For:

(1) any judicial circuit in which there is located a consolidated city, the judges described in section 1(1) of this chapter may establish a bureau of the courts; and

(2) a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000), the judge of the circuit court may establish a bureau of the court;

known as the "Domestic Relations Counseling Bureau".

As added by P.L.1-1997, SEC.4.

IC 31-12-2-3

Order compelling party to cooperate in counseling services

Sec. 3. A judge may order either or both parties in a domestic relations proceeding to:

(1) report to the domestic relations bureau;

(2) cooperate in counseling; and

(3) furnish the counselor with pertinent information in a party's knowledge.

As added by P.L.1-1997, SEC.4.

IC 31-12-2-4

Actions and proceedings in which counseling services shall be provided; referrals

Sec. 4. (a) A domestic relations counseling bureau shall provide counseling service to the parties in separation, dissolution, or annulment actions, including enforcement, modification, and post-decree proceedings that are:

(1) filed in a court; and

(2) referred to the bureau by a judge with the intent to assist in a reconciliation of the parties, in the care and treatment of children, if any, and in the possible solution of any marriage problems or issues in a proceeding, in promotion of the general welfare.

(b) The bureau may receive cases referred to the bureau by attorneys at law, the ministry, or other agencies before a divorce action is filed, and counsel other married couples who seek the bureau's services of their own volition.

As added by P.L.1-1997, SEC.4.

IC 31-12-2-5

Appointment of referees, counselors, assistants, clerks, and other personnel; compensation; expenses

Sec. 5. (a) The judges described in section 1(1) of this chapter and the judge described in section 1(2) of this chapter may appoint:

(1) one (1) or more professionally qualified domestic relations referees, counselors, and other necessary personnel, including a full-time director; and

(2) necessary assistants and clerks;

to serve during the pleasure of the appointing judge to staff the domestic relations counseling bureau.

(b) The appointing judge shall fix the compensation and expenses of the personnel appointed under this chapter, which shall be paid out of the county general fund.

As added by P.L.1-1997, SEC.4.

IC 31-12-2-6

Duties of bureau

Sec. 6. The domestic relations counseling bureau shall perform the following duties in domestic relations cases and such other duties as the judges described in section 1(1) of this chapter, the judge described in section 1(2) of this chapter, or a magistrate assigns to the domestic relations counseling bureau:

(1) The domestic relations counseling bureau shall promptly receive all requests for counseling services for the purpose of disposing of the requests under this chapter.

(2) Whenever a proceeding is initiated and either party requests counseling or mediation, the domestic relations counseling bureau shall, in the bureau's discretion, interview and counsel each party or confer with both parties jointly for the purpose of reconciling the differences between the parties and making recommendations to the judge of any court upon referral.

(3) In each case assigned to the bureau in which the custody, support, or welfare of a child is involved, to protect and

conserve the interest of the child, the domestic relations counseling bureau shall investigate and report upon:

(A) the status and condition of the parties to the cause;

(B) the status and condition of the child;

(C) the provisions made or to be made for the protection of the welfare of the child; and

(D) any other matter pertaining to the marriage that may affect the welfare of the child.

(4) Upon order of the judges described in section 1(1) of this chapter or the judge described in section 1(2) of this chapter, the domestic relations counseling bureau shall:

(A) make post-divorce studies of problems arising in connection with child custody, support, and parenting time;

(B) provide assistance to the parties in the enforcement of support orders; and

(C) cause reports to be made and statistics to be compiled, which records and reports shall be kept as the judges described in section 1(1) of this chapter or the judge described in section 1(2) of this chapter directs.

(5) The domestic relations counseling bureau shall provide supervision in connection with referred cases or other cases as the judges described in section 1(1) of this chapter or the judge described in section 1(2) of this chapter may order.

As added by P.L.1-1997, SEC.4. Amended by P.L.68-2005, SEC.10.

IC 31-12-2-7

Counseling service not condonation of acts constituting grounds for divorce or dissolution of marriage

Sec. 7. The:

(1) use of counseling service provided under this chapter; and

(2) action taken that has been recommended by the domestic relations counselor;

is not condonation on the part of either spouse of acts that may constitute grounds for divorce or dissolution of the marriage.

As added by P.L.1-1997, SEC.4.

IC 31-12-2-8

Private counseling proceedings; confidential communications

Sec. 8. (a) All counseling:

(1) proceedings;

(2) interviews; and

(3) conferences;

shall be held in private.

(b) All communications, verbal or written, and any record made as a result of the communications from the parties to the judge, the domestic relations counselor, or other person designated or recommended under this chapter in a counseling or conciliation proceeding:

(1) are considered to be made in confidence; and

(2) are not admissible and may not be used for any purpose in:

(A) any divorce or dissolution of marriage hearing; or
(B) any other proceeding.
As added by P.L.1-1997, SEC.4.

IC 31-12-2-9
Majority decision of judges
Sec. 9. The judges in carrying out this chapter must act by a majority of all their number.
As added by P.L.1-1997, SEC.4.

IC 31-12-2-10
Rules; special orders
Sec. 10. The judges described in section 1(1) of this chapter and the judge described in section 1(2) of this chapter shall establish uniform rules if applicable and may make special orders and rules as necessary.
As added by P.L.1-1997, SEC.4.

IC 31-12-2-11
Gifts and donations
Sec. 11. The domestic relations counseling bureau may receive gifts and donations from private sources under approval of the judges or the judge to supplement the bureau's budget.
As added by P.L.1-1997, SEC.4.

IC 31-12-2-12
Incorporation of records and property of marriage counseling service into bureau's service
Sec. 12. In a circuit or county that has a marriage counseling service paid for by private money and supervised by a court, the domestic relations counseling bureau may receive all records and property of the existing service and incorporate the records and property into the bureau's service.
As added by P.L.1-1997, SEC.4.

IC 31-12-3

Chapter 3. Family Relations Division of Court

IC 31-12-3-1

Establishment

Sec. 1. Any court that exercises jurisdiction over domestic relations cases may establish a family relations division of the court.

As added by P.L.1-1997, SEC.4.

IC 31-12-3-2

Persons authorized to administer division

Sec. 2. The family relations division may be administered by:

(1) the community mental health center;

(2) a managed care provider (as defined in IC 12-7-2-127(b)); or

(3) any other person approved by the court.

As added by P.L.1-1997, SEC.4.

IC 31-12-3-3

Services offered by division; conciliation procedures

Sec. 3. The family relations division shall offer counseling and related services to persons before the court. Conciliation procedures are governed by IC 31-15-9.

As added by P.L.1-1997, SEC.4.

IC 31-12-4
Chapter 4. Domestic Relations Counseling Bureau Fee

IC 31-12-4-1
Fees; domestic relations counseling services

Sec. 1. (a) Upon order of a judge or group of judges described in IC 31-12-1, IC 31-12-1.5, or IC 31-12-2, and in accordance with this chapter, a court that provides domestic relations counseling services may charge a fee for these services.

(b) In addition to any other domestic relations counseling services ordered by the court, a domestic relations counseling bureau may provide the following domestic relations counseling services:

(1) Screening.
(2) Investigation.
(3) Reporting.
(4) Evaluation.
(5) Counseling.
(6) Mediation.

As added by P.L.80-2006, SEC.3.

IC 31-12-4-2
Domestic relations counseling bureau fund

Sec. 2. (a) If a judge or group of judges issues an order under section 1 of this chapter to charge a domestic relations counseling fee, the judge must also adopt by court rule a schedule of fees. The schedule of fees is not effective until approved by the county fiscal body in accordance with this chapter.

(b) Upon request of a judge or group of judges that issued an order under section 1 of this chapter, the county fiscal body may adopt an ordinance to create a county domestic relations counseling bureau fund to fund the services of a domestic relations court and a domestic relations counseling bureau.

(c) If the county fiscal body creates a domestic relations counseling bureau fund, any fees collected by the domestic relations counseling bureau shall be deposited in the fund.

(d) The fund shall be administered by the judge or group of judges who are signatories to the order described in section 1 of this chapter.

(e) The expenses of administering the fund shall be paid from the money in the fund.

(f) Any money in the fund at the end of a fiscal year does not revert to the county general fund.

(g) The county fiscal body may appropriate money from the domestic relations counseling bureau fund to support the domestic relations counseling bureau. However, a county fiscal body may not transfer funds that have been previously appropriated to the budget of the domestic relations counseling bureau as a consequence of an appropriation from the domestic relations counseling bureau fund.

As added by P.L.80-2006, SEC.3.

IC 31-12-4-3

Gifts and donations

Sec. 3. With the prior approval of the judge or group of judges described in IC 31-12-1, IC 31-12-1.5, or IC 31-12-2, a domestic relations counseling bureau may receive gifts and donations from a private source to supplement the budget of the domestic relations counseling bureau.

As added by P.L.80-2006, SEC.3.

IC 31-13

ARTICLE 13. FAMILY LAW: PARENT-CHILD RELATIONSHIP

IC 31-13-1

Chapter 1. Children of Void or Voidable Marriages

IC 31-13-1-1

Parties to marriage more closely related than second cousins

Sec. 1. If a marriage is void because the parties to the marriage are more closely related than second cousins, the children of the marriage shall be treated as if the children are children of a marriage that is not void.

As added by P.L.1-1997, SEC.5.

IC 31-13-1-2

Bigamous marriages

Sec. 2. If:

(1) a marriage is void because either of the parties to the marriage has a living husband or wife; and

(2) either of the parties to the marriage did not reasonably believe that either of the parties had a living husband or wife;

the children of the marriage shall be treated as if the children are children of a marriage that is not void if the children were conceived before the discovery that a party to the marriage had a living husband or wife.

As added by P.L.1-1997, SEC.5.

IC 31-13-1-3

Child of annulled marriage

Sec. 3. A child of a marriage that is annulled under IC 31-11-10 (or IC 31-7-7 before its repeal) is considered to be a child of a valid marriage if the child is conceived before the marriage is annulled.

As added by P.L.1-1997, SEC.5.

IC 31-13-2

Chapter 2. Children Born Out of Wedlock

IC 31-13-2-1

Petition to establish whether child was born in wedlock; notice; hearing; determination; review

Sec. 1. (a) A person interested in establishing whether a child was born in wedlock may file a petition to maintain an action to determine whether the child was born in wedlock. The petition must:

(1) be filed in the circuit or superior court of a county in which either of the parties to the marriage resides;

(2) set forth the facts concerning the child's birth; and

(3) name as defendants in the action all persons interested in the question of whether the child was born in wedlock.

The petitioner shall give the persons described in subdivision (3) notice in accordance with IC 31-16-2-5.

(b) The court shall hold a hearing on the petition filed under subsection (a) and shall make a determination on the question of whether the child was born in wedlock.

(c) An appeal of the court's determination under subsection (b) may be taken to the supreme court. An appeal taken under this subsection is governed by the same rules that apply to other civil actions that are appealed.

As added by P.L.1-1997, SEC.5.

IC 31-13-2-2

Finality of determination; subsequent review on petition of defendant less than 18 years of age at time of determination

Sec. 2. (a) Except as provided in subsection (b), a final determination made under section 1 of this chapter (or IC 31-7-8-3 before its repeal) is conclusive among the parties to the action and among persons who make claims under parties to the action.

(b) A defendant who was less than eighteen (18) years of age at the time the determination under section 1 of this chapter (or IC 31-7-8-3 before its repeal) became final may petition the circuit or superior court in which the original action was taken to review the determination. This petition must be filed before the individual becomes nineteen (19) years of age.

As added by P.L.1-1997, SEC.5.

IC 31-13-2-3

Child of common law marriage consummated before January 2, 1958

Sec. 3. A child of a common law marriage that was consummated before January 2, 1958, is considered to be a child of a valid marriage.

As added by P.L.1-1997, SEC.5.

IC 31-13-3

Chapter 3. Termination of Parent-Child Relationship

IC 31-13-3-1

Law governing termination

Sec. 1. The termination of a parent-child relationship is governed by IC 31-35.

As added by P.L.1-1997, SEC.5.

IC 31-14

ARTICLE 14. FAMILY LAW: ESTABLISHMENT OF PATERNITY

IC 31-14-1

Chapter 1. General Provisions

IC 31-14-1-1

Public policy regarding establishment of paternity

Sec. 1. The general assembly favors the public policy of establishing paternity under this article of a child born out of wedlock.

As added by P.L.1-1997, SEC.6.

IC 31-14-1-2

Legalization of certain paternity and related orders

Sec. 2. A determination of paternity or related order that:

(1) was issued before May 1, 1989;

(2) was issued five (5) or more months after the father's death; and

(3) resulted from a civil proceeding for the establishment of paternity that was filed in accordance with IC 31-6-6.1-6 (before its repeal, now codified at IC 31-14-5 and IC 31-14-11):

(A) during the father's lifetime; or

(B) within five (5) months after the father's death;

is legalized and validated to the same extent as if the determination of paternity or related order had been issued during the father's lifetime or within five (5) months after the father's death.

As added by P.L.220-2011, SEC.494.

IC 31-14-1.5

Chapter 1.5. Security to Secure Child Support, Custody, and Parenting Time Rights

IC 31-14-1.5-1

Bonds; requirements

Sec. 1. A bond required under this article to secure the obligation of child support, enforcement of a custody order, or enforcement of a parenting time order must:

(1) be in writing; and

(2) be secured by:

(A) at least one (1) resident freehold surety; or

(B) a commercial insurance company.

As added by P.L.171-2001, SEC.1. Amended by P.L.68-2005, SEC.11.

IC 31-14-1.5-2

Bonds; form

Sec. 2. A bond described in section 1 of this chapter may be prepared in substantially the following form:

STATE OF INDIANA)
) SS:
COUNTY OF _____)
)
)
IN THE MATTER OF:
)
)
Name of Parent (As the Principal)
)
Name of Parent (As the Obligee)
)
)
CHILD:
)
Name of Child
)

KNOW ALL MEN BY THESE PRESENTS, that we _____, as Principal, and _____, as Surety, are held and firmly bound unto _____, as Obligee, in the penal sum of ____ Dollars ($____), for the payment of which well and truly to be made we hereby bind ourselves and our heirs, administrators, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS, an Order was duly made and entered by the above Court in the State of Indiana, County of ____, dated ____, defining custody, parenting time, and support rights regarding the named children.

NOW THEREFORE, the conditions of this obligation are such that:

1. No right of action on this bond shall be granted for the use

or benefit of any individual, partnership, corporation, or other entity, other than the named Obligee.

2. It is agreed that neither this bond nor the obligation of this bond, nor any interest in this bond, may be assigned without the prior express written consent of the Surety.
3. Payment under this bond shall be conditioned upon the Obligee's, or the representative of the Obligee's, filing a motion with the court seeking a declaration of forfeiture of the bond and the Court's finding and entry of a final judgment ordering the Principal and Surety to make such payment. A certified copy of the filing shall be provided to the Surety at its address of record. The Surety shall make payment within thirty (30) days of receiving notification of the final judgment directly to a Trustee appointed by the Court who shall administer the funds in a fiduciary capacity.
4. The Surety shall not be liable hereunder for any amount larger than the face amount of this bond.
5. This bond and the obligation hereunder shall terminate and be of no further effect if the Court order requiring it is modified in any way without the Surety's consent, the Court order expires, or this cause is removed to another jurisdiction.
6. The Surety may file a motion with the Court for discharge of this bond and its obligation hereunder for any good cause. Good cause includes, but is not limited to, misrepresentation or fraud in the initial application for this bond, nonpayment of premium, loss of collateral, or resignation of the Indemnitor. The Surety shall give notice of any such motion to the Obligee.

NOW THEREFORE, if the Principal faithfully complies with the requirements and conditions of the Court Order within the limitations and parameters set forth therein, then this Obligation shall be void, otherwise it shall remain in full force and effect.

In witness whereof, each party to this bond has caused it to be executed at the place and on the date indicated below.

Signed, sealed and dated on this ____ day of ____, 20___.

Principal:	Surety:
_____	_____
(Name and address of Principal)	(Name and address of Surety)
_____	_____
(Signature of Principal)	(Countersigned by attorney-in-fact)
(Surety seal)	
Witness:	

As added by P.L.171-2001, SEC.1. Amended by P.L.68-2005, SEC.12.

IC 31-14-1.5-3
Forfeiture; use of proceeds

Sec. 3. Upon forfeiture, the proceeds of the security, a bond, or

other guarantee ordered to secure the obligation of child support, enforcement of a custody order, or enforcement of a parenting time order under this article may only be used to:

(1) reimburse the nonviolating party for actual costs or damages incurred in upholding the court's order;

(2) locate and return the child to the residence as set forth in the court's order, if the security, bond, or guarantee covers custody or parenting time, or both; or

(3) reimburse reasonable fees and court costs to the court appointed trustee.

As added by P.L.171-2001, SEC.1. Amended by P.L.68-2005, SEC.13.

IC 31-14-1.5-4

Forfeiture; excess proceeds

Sec. 4. Upon forfeiture, the proceeds of the security, a bond, or other guarantee ordered to secure the obligation of child support, enforcement of a custody order, or enforcement of a parenting time order under this article that are not applied to the expenses described in section 3 of this chapter must be applied toward:

(1) the child's postsecondary education; or

(2) the support and maintenance of the child.

As added by P.L.171-2001, SEC.1. Amended by P.L.68-2005, SEC.14; P.L.2-2007, SEC.357.

IC 31-14-2

Chapter 2. Methods of Establishing Paternity

IC 31-14-2-1

Exclusive methods of establishing paternity

Sec. 1. A man's paternity may only be established:

(1) in an action under this article; or

(2) by executing a paternity affidavit in accordance with IC 16-37-2-2.1.

As added by P.L.1-1997, SEC.6.

IC 31-14-3

Chapter 3. Rules of Procedure in Paternity Actions

IC 31-14-3-1

Application of Indiana Rules of Civil Procedure

Sec. 1. The Indiana Rules of Civil Procedure apply to paternity actions.

As added by P.L.1-1997, SEC.6.

IC 31-14-3-2

Venue

Sec. 2. Venue lies in the county in which the child, the mother, or the alleged father resides.

As added by P.L.1-1997, SEC.6.

IC 31-14-4

Chapter 4. Parties Entitled to File Paternity Action

IC 31-14-4-1

Persons permitted to file action

Sec. 1. A paternity action may be filed by the following persons:

(1) The mother or expectant mother.

(2) A man alleging that:

(A) he is the child's biological father; or

(B) he is the expectant father of an unborn child.

(3) The mother and a man alleging that he is her child's biological father, filing jointly.

(4) The expectant mother and a man alleging that he is the biological father of her unborn child, filing jointly.

(5) A child.

(6) The department or a county office of family and children under section 3 of this chapter.

(7) The prosecuting attorney under section 2 of this chapter.

As added by P.L.1-1997, SEC.6. Amended by P.L.145-2006, SEC.220.

IC 31-14-4-2

Prosecuting attorney to file action and represent child

Sec. 2. (a) Upon the request of:

(1) the child;

(2) the mother or expectant mother;

(3) a man alleging to be the father or expectant father;

(4) the department; or

(5) the county office of family and children;

the prosecuting attorney shall file a paternity action and represent the child in that action.

(b) A prosecuting attorney's office may file a paternity action if the child is:

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

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

As added by P.L.1-1997, SEC.6. Amended by P.L.103-1997, SEC.2; P.L.145-2006, SEC.221.

IC 31-14-4-3

Department or county office of family and children may file action

Sec. 3. The department or a county office of family and children may file a paternity action if:

(1) the mother;

(2) the person with whom the child resides; or

(3) the director of the county office of family and children;

has executed an assignment of support rights under Title IV-D of the federal Social Security Act (42 U.S.C. 651 through 669).

As added by P.L.1-1997, SEC.6. Amended by P.L.145-2006,

SEC.222.

IC 31-14-5

Chapter 5. Filing of Paternity Action; Limitations

IC 31-14-5-1

Verification of petition; caption

Sec. 1. Each petition in a paternity action must:

(1) be verified; and

(2) be captioned "In the Matter of the Paternity of _____".

As added by P.L.1-1997, SEC.6.

IC 31-14-5-2

Petition by minors and incompetent persons; time for filing petition; tolling of limitations during period of incompetency

Sec. 2. (a) A person less than eighteen (18) years of age may file a petition if the person is competent except for the person's age. A person who is otherwise incompetent may file a petition through the person's guardian, guardian ad litem, or next friend.

(b) Except as provided in subsection (c), a child may file a paternity petition at any time before the child reaches twenty (20) years of age.

(c) If a child is incompetent on the child's eighteenth birthday, the child may file a petition not later than two (2) years after the child becomes competent.

As added by P.L.1-1997, SEC.6.

IC 31-14-5-3

Time for filing action

Sec. 3. (a) This section does not apply to an action filed by the department or its agents under section 4 of this chapter (or IC 31-6-6.1-6(c) before its repeal).

(b) The mother, a man alleging to be the child's father, or the department or its agents must file a paternity action not later than two (2) years after the child is born, unless:

(1) both the mother and the alleged father waive the limitation on actions and file jointly;

(2) support has been furnished by the alleged father or by a person acting on his behalf, either voluntarily or under an agreement with:

(A) the mother;

(B) a person acting on the mother's behalf; or

(C) a person acting on the child's behalf;

(3) the mother, the department, or the county office of family and children files a petition after the alleged father has acknowledged in writing that he is the child's biological father;

(4) the alleged father files a petition after the mother has acknowledged in writing that he is the child's biological father;

(5) the petitioner was incompetent at the time the child was born; or

(6) a responding party cannot be served with summons during the two (2) year period.

(c) If any of the conditions described in subsection (b) exist, the paternity petition must be filed not later than two (2) years after the condition described in subsection (b) ceases to exist.
As added by P.L.1-1997, SEC.6. Amended by P.L.145-2006, SEC.223.

IC 31-14-5-4
Action by division or county office of family and children furnishing public assistance; time for filing action

Sec. 4. If:

(1) public assistance has been furnished for the child by the division of family resources; and

(2) an assignment of support rights under Title IV-D of the federal Social Security Act (42 U.S.C. 651 through 669) has been executed on behalf of the child;

the division of family resources or the county office of family and children may file an action before the child becomes nineteen (19) years of age or graduates from high school, whichever occurs first.
As added by P.L.1-1997, SEC.6. Amended by P.L.145-2006, SEC.224.

IC 31-14-5-5
Action to be filed during lifetime or within five months of death of alleged father

Sec. 5. Notwithstanding any other provision of this chapter, an action must be filed:

(1) during the lifetime of the alleged father; or

(2) not later than five (5) months after his death.

As added by P.L.1-1997, SEC.6.

IC 31-14-5-6
Necessary parties

Sec. 6. The child, the child's mother, and each person alleged to be the father are necessary parties to each action.
As added by P.L.1-1997, SEC.6.

IC 31-14-5-7
Registration with putative father registry

Sec. 7. A man who files or is a party to a paternity action shall register with the putative father registry under IC 31-19-5.
As added by P.L.1-1997, SEC.6.

IC 31-14-5-8
Action not barred by child's death or stillbirth or mother's death

Sec. 8. An action not otherwise barred is not barred by:

(1) the death or stillbirth of the child; or

(2) the death of the mother.

As added by P.L.1-1997, SEC.6.

IC 31-14-5-9

Barred from establishing paternity

Sec. 9. A man who is barred under IC 31-19 from establishing paternity may not establish paternity by:

(1) filing a paternity action as next friend of a child; or

(2) requesting a prosecuting attorney to file a paternity action.

As added by P.L.21-2010, SEC.1.

IC 31-14-6

Chapter 6. Blood Testing in Paternity Actions

IC 31-14-6-0.1

Effect of certain amendments to chapter on certain court orders

Sec. 0.1. The amendments made to section 4 of this chapter by P.L.44-2003 do not negate a court order entered before July 1, 2003, requiring an individual found to be the biological father of a child to reimburse the state or a political subdivision for the costs of genetic testing.

As added by P.L.220-2011, SEC.495.

IC 31-14-6-1

Blood or genetic testing

Sec. 1. Upon the motion of any party, the court shall order all of the parties to a paternity action to undergo blood or genetic testing. A qualified expert approved by the court shall perform the tests.

As added by P.L.1-1997, SEC.6.

IC 31-14-6-2

Objections and admissibility

Sec. 2. A party may object to the admissibility of genetic test results obtained under section 1 of this chapter (or IC 31-6-6.1-8(a) before its repeal) if the party files a written objection at least thirty (30) days before a scheduled hearing at which the test results may be offered as evidence. If a party does not file an objection under this section (or IC 31-6-6.1-8(b) before its repeal), the test results are admissible as evidence of paternity without the necessity of:

(1) foundation testimony; or

(2) other proof;

regarding the accuracy of the test results.

As added by P.L.1-1997, SEC.6.

IC 31-14-6-3

Test results; effect; admissibility

Sec. 3. The results of the tests and the finding of the expert:

(1) constitute conclusive evidence if the results and finding exclude a party as the biological father of the child; and

(2) are admissible in all paternity proceedings, unless the court excludes the results or finding for good cause.

As added by P.L.1-1997, SEC.6.

IC 31-14-6-4

Costs of blood or genetic testing

Sec. 4. If the state or a political subdivision of the state pays the initial costs of blood testing or genetic testing in a paternity action, the state or political subdivision may recover those costs from an individual found to be the biological parent of the child in the action. The court shall determine the manner in which reimbursement for the costs is to be made.

As added by P.L.1-1997, SEC.6. Amended by P.L.44-2003, SEC.1.

IC 31-14-6-5
Chain of custody of blood or genetic specimens taken for testing

Sec. 5. The chain of custody of blood or genetic specimens taken for testing may be established through verified documentation of each change of custody if:

(1) the documentation was made at or around the time of the change of custody;

(2) the documentation was made in the course of a regularly conducted business activity; and

(3) the documentation was made as a regular practice of a business activity.

As added by P.L.1-1997, SEC.6. Amended by P.L.213-1999, SEC.9.

IC 31-14-7

Chapter 7. Presumption of Paternity

IC 31-14-7-1

Presumptions; child's biological father

Sec. 1. A man is presumed to be a child's biological father if:

(1) the:

(A) man and the child's biological mother are or have been married to each other; and

(B) child is born during the marriage or not later than three hundred (300) days after the marriage is terminated by death, annulment, or dissolution;

(2) the:

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

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

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

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

(3) the man undergoes a genetic test that indicates with at least a ninety-nine percent (99%) probability that the man is the child's biological father.

As added by P.L.1-1997, SEC.6. Amended by P.L.138-2001, SEC.6.

IC 31-14-7-2

Rebuttable presumption; child's biological father

Sec. 2. (a) If there is not a presumed biological father under section 1 of this chapter, there is a rebuttable presumption that a man is the child's biological father if, with the consent of the child's mother, the man:

(1) receives the child into the man's home; and

(2) openly holds the child out as the man's biological child.

(b) The circumstances under this section do not establish the man's paternity. A man's paternity may only be established as described in IC 31-14-2-1.

As added by P.L.1-1997, SEC.6. Amended by P.L.138-2001, SEC.7; P.L.1-2009, SEC.156.

IC 31-14-7-3

Paternity affidavits

Sec. 3. A man is a child's legal father if the man executed a paternity affidavit in accordance with IC 16-37-2-2.1 and the paternity affidavit has not been rescinded or set aside under IC 16-37-2-2.1.

As added by P.L.138-2001, SEC.8.

IC 31-14-8

Chapter 8. Paternity Hearing

IC 31-14-8-1

Finding of paternity without hearing

Sec. 1. The court may enter a finding that a man is the child's biological father without first holding a hearing on the matter if:

(1) the mother and the alleged father in the paternity issue execute and file with the court a verified written stipulation; or

(2) the parties have filed a joint petition alleging;

that the man is the child's biological father.

As added by P.L.1-1997, SEC.6.

IC 31-14-8-2

Default order against alleged father failing to appear at hearing

Sec. 2. If a man who is the alleged father in a paternity action under this article fails to appear for a hearing relating to the man's paternity, the court shall enter a default order against the man upon a showing that the man received notice of the hearing.

As added by P.L.1-1997, SEC.6.

IC 31-14-8-3

Repealed

(Repealed by P.L.257-1997(ss), SEC.40.)

IC 31-14-8-4

Continuance of final hearing

Sec. 4. Upon the request of any party, the court shall grant a continuance of the final paternity hearing until after the child is born.

As added by P.L.1-1997, SEC.6.

IC 31-14-9
Chapter 9. Record of Paternity Determination

IC 31-14-9-0.5
Notice of filing of petition to establish paternity

Sec. 0.5. Upon the filing of a petition to establish paternity, the clerk of the court shall prepare a notice of the filing on a form prescribed and furnished by the state department of health. The notice must include the following:

(1) The name of the child.
(2) The name of the mother of the child.
(3) The name and address of the man alleged or alleging to be the father of the child.
(4) The name of the petitioner.
(5) The date the petition was filed.
(6) The name of the court and cause number.

As added by P.L.58-2009, SEC.3.

IC 31-14-9-1
Preparation of record of paternity determination

Sec. 1. Upon a finding that a man is a child's biological father, the clerk of the court shall prepare a record of the paternity determination on a form prescribed and furnished by the state department of health. The record must include the following:

(1) Facts necessary to locate and identify the birth certificate of the child whose paternity has been established.
(2) A notice from the court indicating that the child's paternity has been established in a court proceeding under this article (or IC 31-6-6.1 before its repeal), including identification of the court action and proceedings.
(3) The name and address of the child's father.

As added by P.L.1-1997, SEC.6.

IC 31-14-9-2
Submission to department

Sec. 2. (a) Not later than the tenth day of each month, the clerk of the court shall forward to the state department of health the following:

(1) Each record of a paternity determination entered during the preceding month.
(2) Each order entered during the preceding month indicating that a court has set aside a paternity determination.
(3) Any other related reports that the state department of health requires.

(b) Not later than five (5) days after a petition to establish paternity has been filed, the clerk of the court shall forward to the state department of health a notice required by section 0.5 of this chapter related to the petition to establish paternity.

As added by P.L.1-1997, SEC.6. Amended by P.L.58-2009, SEC.4.

IC 31-14-10

Chapter 10. Hearing to Determine Support, Custody, and Parenting Time Following Determination of Paternity

IC 31-14-10-1

Hearing to determine support, custody, and parenting time following initial determination of paternity; order to probation officer to prepare report

Sec. 1. Upon finding that a man is the child's biological father, the court shall, in the initial determination, conduct a hearing to determine the issues of support, custody, and parenting time. Upon the request of any party or on the court's own motion, the court may order a probation officer to prepare a report to assist the court in determining these matters.

As added by P.L.1-1997, SEC.6. Amended by P.L.68-2005, SEC.15; P.L.146-2008, SEC.555.

IC 31-14-10-2

Consultation with probation officer; referral of child for evaluation

Sec. 2. The probation officer may do the following:

(1) Consult with any person who may have information about the child and the child's potential custodial arrangements.

(2) Upon approval of the court, refer the child for professional diagnosis and evaluation.

(3) Without consent from the child's parent or guardian, consult with and obtain information concerning the child from:

(A) medical;

(B) psychiatric;

(C) psychological; or

(D) other;

persons who have knowledge of the child.

As added by P.L.1-1997, SEC.6. Amended by P.L.146-2008, SEC.556.

IC 31-14-10-3

Findings and orders without hearing

Sec. 3. The court may make findings and orders without holding the hearing required by section 1 of this chapter if:

(1) the mother and the alleged father execute and file with the court a verified written stipulation; or

(2) the parties have filed a joint petition;

resolving the issues of custody, child support, and parenting time. The court shall incorporate provisions of the written stipulation or joint petition into orders entered under this section.

As added by P.L.1-1997, SEC.6. Amended by P.L.68-2005, SEC.16.

IC 31-14-11

Chapter 11. Support Following Determination of Paternity

IC 31-14-11-0.2

Application of certain amendments to prior law

Sec. 0.2. The amendments made to IC 31-6-6.1-13 by P.L.155-1990 (before its repeal, now codified in this chapter) apply only to a support order issued after June 30, 1990.

As added by P.L.220-2011, SEC.496.

IC 31-14-11-1

Issuance of paternity and child support order upon execution of paternity affidavit

Sec. 1. If:

(1) a paternity affidavit is executed under IC 16-37-2-2.1; and

(2) the man who executed the paternity affidavit fails to set forth evidence at a child support hearing that rebuts the man's paternity;

an order establishing paternity and child support for the child named in the paternity affidavit may be obtained at a child support hearing without any further proceedings to establish the child's paternity.

As added by P.L.1-1997, SEC.6.

IC 31-14-11-1.1

Temporary order for child support

Sec. 1.1. In a paternity proceeding, the court shall issue a temporary order for child support if there is clear and convincing evidence that the man involved in the proceeding is the child's biological father.

As added by P.L.257-1997(ss), SEC.39.

IC 31-14-11-2

Child support order

Sec. 2. The court may order either or both parents to pay any reasonable amount for child support.

As added by P.L.1-1997, SEC.6. Amended by P.L.86-2002, SEC.6; P.L.148-2006, SEC.8; P.L.80-2010, SEC.22; P.L.207-2013, SEC.19.

IC 31-14-11-2.3

Child support order subject to provisions

Sec. 2.3. A child support order issued under this chapter is subject to the provisions in IC 31-16-6 through IC 31-16-13.

As added by P.L.207-2013, SEC.20.

IC 31-14-11-2.5

Repealed

(Repealed by P.L.207-2013, SEC.21.)

IC 31-14-11-3

Repealed

(Repealed by P.L.207-2013, SEC.22.)

IC 31-14-11-4
Repealed
(Repealed by P.L.207-2013, SEC.23.)

IC 31-14-11-5
Date for support obligation to begin
Sec. 5. The support order:
(1) may include the period dating from the birth of the child; and
(2) must include the period dating from the filing of the paternity action.
As added by P.L.1-1997, SEC.6.

IC 31-14-11-6
Repealed
(Repealed by P.L.207-2013, SEC.24.)

IC 31-14-11-7
Repealed
(Repealed by P.L.207-2013, SEC.25.)

IC 31-14-11-8
Repealed
(Repealed by P.L.207-2013, SEC.26.)

IC 31-14-11-9
Repealed
(Repealed by P.L.207-2013, SEC.27.)

IC 31-14-11-10
Repealed
(Repealed by P.L.207-2013, SEC.28.)

IC 31-14-11-11
Repealed
(Repealed by P.L.207-2013, SEC.29.)

IC 31-14-11-12
Repealed
(Repealed by P.L.207-2013, SEC.30; P.L.205-2013, SEC.356.)

IC 31-14-11-13
Repealed
(Repealed by P.L.207-2013, SEC.31.)

IC 31-14-11-14
Repealed
(Repealed by P.L.207-2013, SEC.32.)

IC 31-14-11-15
Repealed
(Repealed by P.L.207-2013, SEC.33.)

IC 31-14-11-16
Repealed
(Repealed by P.L.207-2013, SEC.34.)

IC 31-14-11-17
Repealed
(Repealed by P.L.207-2013, SEC.35.)

IC 31-14-11-18
Repealed
(Repealed by P.L.207-2013, SEC.36.)

IC 31-14-11-19
Repealed
(Repealed by P.L.207-2013, SEC.37.)

IC 31-14-11-20
Repealed
(Repealed by P.L.207-2013, SEC.38.)

IC 31-14-11-21
Repealed
(Repealed by P.L.207-2013, SEC.39.)

IC 31-14-11-22
Repealed
(Repealed by P.L.207-2013, SEC.40.)

IC 31-14-11-23
Termination of child support obligation; fraud or mistake of fact
Sec. 23. If a court vacates or has vacated a man's paternity of a child based on fraud or mistake of fact, the man's child support obligation, including any arrearage, terminates.
As added by P.L.1-1997, SEC.6.

IC 31-14-11-24
Repealed
(Repealed by P.L.207-2013, SEC.41.)

IC 31-14-12
Repealed

(Repealed by P.L.207-2013, SEC.42.)

IC 31-14-13

Chapter 13. Custody Following Determination of Paternity

IC 31-14-13-1

Sole legal custody in biological mother; exceptions

Sec. 1. A biological mother of a child born out of wedlock has sole legal custody of the child, except as provided in IC 16-37-2-2.1, and unless a statute or court order provides otherwise under the following:

(1) IC 12-26 (involuntary commitment of a child).

(2) IC 29-3 (guardianship and protective proceedings under the probate code).

(3) IC 31-14 (custody of a child born outside of a marriage).

(4) IC 31-34 (child in need of services).

(5) IC 31-37 (delinquent child).

(6) IC 35-46 (offenses against the family).

(7) IC 35-50 (criminal sentences).

(8) An order by a court that has jurisdiction over the child.

As added by P.L.1-1997, SEC.6. Amended by P.L.25-2010, SEC.2.

IC 31-14-13-2

Factors of custody determination

Sec. 2. The court shall determine custody in accordance with the best interests of the child. In determining the child's best interests, there is not a presumption favoring either parent. The court shall consider all relevant factors, including the following:

(1) The age and sex of the child.

(2) The wishes of the child's parents.

(3) The wishes of the child, with more consideration given to the child's wishes if the child is at least fourteen (14) years of age.

(4) The interaction and interrelationship of the child with:

(A) the child's parents;

(B) the child's siblings; and

(C) any other person who may significantly affect the child's best interest.

(5) The child's adjustment to home, school, and community.

(6) The mental and physical health of all individuals involved.

(7) Evidence of a pattern of domestic or family violence by either parent.

(8) Evidence that the child has been cared for by a de facto custodian, and if the evidence is sufficient, the court shall consider the factors described in section 2.5(b) of this chapter.

As added by P.L.1-1997, SEC.6. Amended by P.L.96-1999, SEC.2; P.L.133-2002, SEC.24.

IC 31-14-13-2.3

Joint legal custody; finding required for award; factors considered in making award

Sec. 2.3. (a) In a proceeding to which this chapter applies, the

court may award legal custody of a child jointly if the court finds that an award of joint legal custody would be in the best interest of the child.

(b) An award of joint legal custody under this section does not require an equal division of physical custody of the child.

(c) In determining whether an award of joint legal custody under this section would be in the best interest of the child, the court shall consider it a matter of primary, but not determinative, importance that the persons awarded joint legal custody have agreed to an award of joint legal custody. The court shall also consider:

(1) the fitness and suitability of each of the persons awarded joint legal custody;

(2) whether the persons awarded joint legal custody are willing and able to communicate and cooperate in advancing the child's welfare;

(3) the wishes of the child, with more consideration given to the child's wishes if the child is at least fourteen (14) years of age;

(4) whether the child has established a close and beneficial relationship with both of the persons awarded joint legal custody;

(5) whether the persons awarded joint legal custody:

(A) live in close proximity to each other; and

(B) plan to continue to do so;

(6) the nature of the physical and emotional environment in the home of each of the persons awarded joint legal custody; and

(7) whether there is a pattern of domestic or family violence.

As added by P.L.95-2009, SEC.2.

IC 31-14-13-2.5

Consideration of de facto custodian factors

Sec. 2.5. (a) This section applies only if the court finds by clear and convincing evidence that the child has been cared for by a de facto custodian.

(b) In addition to the factors listed in section 2 of this chapter, the court shall consider the following factors in determining custody:

(1) The wishes of the child's de facto custodian.

(2) The extent to which the child has been cared for, nurtured, and supported by the de facto custodian.

(3) The intent of the child's parent in placing the child with the de facto custodian.

(4) The circumstances under which the child was allowed to remain in the custody of the de facto custodian, including whether the child was placed with the de facto custodian to allow the parent seeking custody to:

(A) seek employment;

(B) work; or

(C) attend school.

(c) If a court determines that a child is in the custody of a de facto custodian, the court shall make the de facto custodian a party to the proceeding.

(d) The court shall award custody of the child to the child's de facto custodian if the court determines that it is in the best interests of the child.

(e) If the court awards custody of the child to the child's de facto custodian, the de facto custodian is considered to have legal custody of the child under Indiana law.

As added by P.L.96-1999, SEC.3.

IC 31-14-13-3

Interview of child in chambers

Sec. 3. (a) The court may interview the child in chambers to ascertain the child's wishes.

(b) The court may permit counsel to be present at the interview.

(c) If counsel is present at the interview, a record may be made of the interview and made part of the record for purposes of appeal.

As added by P.L.1-1997, SEC.6.

IC 31-14-13-4

Authority of custodial parent to determine child's upbringing

Sec. 4. Except as otherwise provided in an order by a court, the custodial parent may determine the child's upbringing, which includes education, health care, and religious training, unless the court determines that the best interests of the child require a limitation on this authority.

As added by P.L.1-1997, SEC.6. Amended by P.L.95-2009, SEC.3.

IC 31-14-13-5

Supervision of placement

Sec. 5. The court may order the probation department or any licensed child placing agency to supervise the placement to ensure that the custodial or parenting time terms of the decree are carried out if:

(1) both parents or the child request supervision; or

(2) the court finds that without supervision the child's physical health and well-being would be endangered or the child's emotional development would be significantly impaired.

As added by P.L.1-1997, SEC.6. Amended by P.L.68-2005, SEC.17; P.L.146-2008, SEC.557.

IC 31-14-13-6

Modification of child custody order

Sec. 6. The court may not modify a child custody order unless:

(1) modification is in the best interests of the child; and

(2) there is a substantial change in one (1) or more of the factors that the court may consider under section 2 and, if applicable, section 2.5 of this chapter.

As added by P.L.1-1997, SEC.6. Amended by P.L.96-1999, SEC.4.

IC 31-14-13-6.1

Delegation of parenting time during deployment; automatically

terminates upon return

Sec. 6.1. (a) Upon the motion of a parent who has received military deployment orders, the court may delegate the parent's parenting time, or a part of the parent's parenting time, during the time the parent is deployed to a person who has a close and substantial relationship with the parent's child if the court finds that delegating the parent's parenting time is in the best interests of the child.

(b) If a court delegates parenting time under subsection (a), the order delegating parenting time automatically terminates after the parent returns from deployment.

(c) A court may terminate an order delegating parenting time if the court determines that the delegated parenting time is no longer in the best interests of the child.

As added by P.L.55-2012, SEC.1.

IC 31-14-13-6.2

Military duties, expedited hearing; allow evidence by electronic means

Sec. 6.2. (a) Upon a motion of a parent who has received military temporary duty, deployment, or mobilization orders, the court shall hold an expedited hearing to determine or modify the custody of a child or parenting time with a child if the military duties of the parent have a material effect on the parent's ability to appear in person at a regularly scheduled hearing concerning custody or parenting time.

(b) Upon a motion of a parent who has received military temporary duty, deployment, or mobilization orders, the court shall, with reasonable notice, allow the parent to present testimony and evidence by:

(1) telephone;
(2) video teleconference;
(3) Internet; or
(4) other electronic means approved by the court;

in a custody or parenting time proceeding if the military duties of the parent have a material effect on the parent's ability to appear in person at a regularly scheduled hearing concerning custody or parenting time.

As added by P.L.55-2012, SEC.2.

IC 31-14-13-6.3

Parent's active duty service not a factor; temporary modification of custody

Sec. 6.3. (a) A court may not consider a parent's absence or relocation due to active duty service as a factor in determining custody or permanently modifying a child custody order.

(b) If a court temporarily modifies a custody order due to a parent's active duty service, the order temporarily modifying the custody order terminates automatically not later than ten (10) days after the date the parent notifies the temporary custodian in writing that the parent has returned from active duty service. This subsection

does not prevent a court from modifying a child custody order as provided under this article after a parent returns from active duty service.
As added by P.L.80-2010, SEC.28.

IC 31-14-13-6.5
Security, bond, or guarantee

Sec. 6.5. The court may provide in:
(1) a custody order; or
(2) a modification of a custody order;
for the security, bond, or other guarantee that is satisfactory to the court to secure enforcement of the custody order.
As added by P.L.171-2001, SEC.3.

IC 31-14-13-6.7
Security, bond, or guarantee; determinations

Sec. 6.7. (a) The court shall consider requiring security, a bond, or another guarantee under section 6.5 of this chapter if the court makes a finding under subdivision (1), (2), (4), or (7) by clear and convincing evidence. If the court makes a finding under subdivision (1), (2), (4), or (7), the court shall also consider subdivisions (3), (5), (6), (8), and (9) in determining the amount of security, bond, or other guarantee. In making a determination under this section, the court shall consider the following:
(1) Whether a party has previously taken a child out of Indiana or another state in violation of a custody, parenting time, or visitation order.
(2) Whether a party has previously threatened to take a child out of Indiana or another state in violation of a custody, parenting time, or visitation order.
(3) Whether a party has strong ties to Indiana.
(4) Whether a party:
(A) is a citizen of another country;
(B) has strong emotional or cultural ties to the other country; and
(C) has indicated or threatened to take a child out of Indiana to the other country.
(5) Whether a party has friends or family living outside Indiana.
(6) Whether a party does not have a financial reason to stay in Indiana, such as whether the party is unemployed, able to work anywhere, or is financially independent.
(7) Whether a party has engaged in planning that would facilitate removal from Indiana, such as quitting a job, selling the party's primary residence, terminating a lease, closing an account, liquidating other assets, hiding or destroying documents, applying for a passport, applying for a birth certificate, or applying for school or medical records.
(8) Whether a party has a history of marital instability, a lack of parental cooperation, domestic violence, or child abuse.
(9) Whether a party has a criminal record.

After considering evidence, the court shall issue a written determination of security, bond, or other written guarantee supported by findings of fact and conclusions of law.

(b) If a motion for change of judge or change of venue is filed, the court may, before a determination of change of judge or change of venue, consider security, bond, or other guarantee under this chapter.
As added by P.L.171-2001, SEC.4. Amended by P.L.68-2005, SEC.18.

IC 31-14-13-7
Determination; factors considered

Sec. 7. In making a determination, the court shall consider the factors listed under section 2 of this chapter.
As added by P.L.1-1997, SEC.6.

IC 31-14-13-8
Custody modification proceeding; violation of injunction or temporary restraining order as factor

Sec. 8. An intentional violation by a custodial parent of an injunction or a temporary restraining order issued under IC 31-14-15 (or IC 31-6-6.1-12.1 before its repeal) may be considered a relevant factor under section 2 of this chapter that the court must consider in a proceeding for a custody modification under this chapter.
As added by P.L.1-1997, SEC.6.

IC 31-14-13-9
Custody modification proceeding; admissible evidence

Sec. 9. In a proceeding for a custody modification, the court may not hear evidence on a matter occurring before the last custody proceeding between the parties unless the matter relates to a change in the factors relating to the best interests of the child as described in section 2 and, if applicable, section 2.5 of this chapter.
As added by P.L.1-1997, SEC.6. Amended by P.L.96-1999, SEC.5.

IC 31-14-13-10
Notice of intent to move residence

Sec. 10. If an individual who has been awarded custody of or parenting time with a child under this article (or IC 31-6-6.1-11 before its repeal) intends to move the individual's residence, the individual must:

(1) file a notice of that intent with the clerk of the court that issued the custody or parenting time order; and

(2) send a copy of the notice to each nonrelocating individual in accordance with IC 31-17-2.2.

As added by P.L.1-1997, SEC.6. Amended by P.L.50-2006, SEC.6.

IC 31-14-13-11
Notice of passport application for child

Sec. 11. (a) If any party to a custody order applies for a passport for the child, the party who applies for the child's passport shall do

the following not less than ten (10) days before applying for the child's passport:

(1) File a notice of the passport application with the clerk of the court that issued the custody order.

(2) Send a copy of the notice to the other party.

(b) The parties may jointly agree in writing to waive the requirements of subsection (a).

As added by P.L.1-1997, SEC.6. Amended by P.L.96-1999, SEC.6.

IC 31-14-13-12

Submissions to the court; court requests for information

Sec. 12. (a) If a person files a petition to establish or modify custody of a child, any person who:

(1) is a party to the custody proceeding; and

(2) has knowledge that:

(A) a party to the custody proceeding has been determined to be a perpetrator of a substantiated report of child abuse or neglect;

(B) the child named in the petition has been the subject of a substantiated report of child abuse or neglect;

(C) the child named in the petition has been determined to be a child in need of services under IC 31-34; or

(D) the child named in the petition has been involved in an informal adjustment under IC 31-34-8;

shall submit to the court in writing under seal that a party to the custody proceeding is a person described in subdivision (2)(A) or the child named in the petition is a child described in subdivision (2)(B), (2)(C), or (2)(D).

(b) A court reviewing a petition to establish or modify the custody of a child may request information from the department of child services regarding a petition or proceeding described in subsection (a)(2). The department shall provide a response under seal to the court's request for information not later than ten (10) days after the department receives the court's request for the information.

As added by P.L.239-2013, SEC.2.

IC 31-14-14

Chapter 14. Parenting Time Following Determination of Paternity

IC 31-14-14-0.2

Application of certain amendments to prior law

Sec. 0.2. The amendments made to IC 31-6-6.1-12 (before its repeal, now codified in this chapter) by P.L.270-1989 apply to adoptions in which a final order is issued by a trial court after May 5, 1989.

As added by P.L.220-2011, SEC.497.

IC 31-14-14-1

Parenting time rights of noncustodial parent; in chambers interview of child; rebuttable presumption for supervised parenting time

Sec. 1. (a) A noncustodial parent is entitled to reasonable parenting time rights unless the court finds, after a hearing, that parenting time might:

(1) endanger the child's physical health and well-being; or

(2) significantly impair the child's emotional development.

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

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

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

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

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

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

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

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

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

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

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

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

As added by P.L.1-1997, SEC.6. Amended by P.L.15-2004, SEC.1; P.L.68-2005, SEC.19; P.L.95-2009, SEC.4.

IC 31-14-14-2

Modification or denial of parenting time

Sec. 2. The court may modify an order granting or denying parenting time rights whenever modification would serve the best interests of the child.

As added by P.L.1-1997, SEC.6. Amended by P.L.68-2005, SEC.20.

IC 31-14-14-2.5
Security, bond, or guarantee

Sec. 2.5. The court may provide in:

(1) a parenting time order; or

(2) a modification of a parenting time order;

for the security, bond, or other guarantee that is satisfactory to secure enforcement of the parenting time order.

As added by P.L.171-2001, SEC.5. Amended by P.L.68-2005, SEC.21.

IC 31-14-14-3
Grant or denial of visitation rights to noncustodial parent; effect on visitation rights of grandparent

Sec. 3. An order granting or denying visitation rights to a noncustodial parent does not affect visitation rights granted to a grandparent under IC 31-17-5-1 or IC 31-17-5-10 (or IC 31-1-11.7-2 before its repeal).

As added by P.L.1-1997, SEC.6.

IC 31-14-14-4
Missed parenting time; noncustodial parent in military

Sec. 4. A noncustodial parent who misses parenting time as the result of participation in an activity of:

(1) the Indiana National Guard; or

(2) a reserve component of the armed forces of the United States;

may make up the lost parenting time as provided in IC 10-16-7-22.

As added by P.L.103-1997, SEC.3. Amended by P.L.2-2003, SEC.71; P.L.68-2005, SEC.22.

IC 31-14-14-5
Supervised parenting time; conviction of crime involving domestic or family violence; batterer's intervention program

Sec. 5. (a) This section applies if a court finds that a noncustodial parent has been convicted of a crime involving domestic or family violence that was witnessed or heard by the noncustodial parent's child.

(b) There is created a rebuttable presumption that the court shall order that the noncustodial parent's parenting time with the child must be supervised:

(1) for at least one (1) year and not more than two (2) years immediately following the crime involving domestic or family violence; or

(2) until the child becomes emancipated;

whichever occurs first.

(c) As a condition of granting the noncustodial parent unsupervised parenting time, the court may require the noncustodial parent to complete a batterer's intervention program certified by the

Indiana coalition against domestic violence.
As added by P.L.188-1999, SEC.1. Amended by P.L.243-1999, SEC.1; P.L.133-2002, SEC.25; P.L.68-2005, SEC.23; P.L.162-2011, SEC.11.

IC 31-14-14-6
Submissions to the court; court requests for information

Sec. 6. (a) If a person files a petition to establish or modify parenting time with a child, any person who:

(1) is a party to the parenting time proceeding; and

(2) has knowledge that:

(A) a party to the parenting time proceeding has been determined to be a perpetrator of a substantiated report of child abuse or neglect;

(B) the child named in the petition has been the subject of a substantiated report of child abuse or neglect;

(C) the child named in the petition has been determined to be a child in need of services under IC 31-34; or

(D) the child named in the petition has been involved in an informal adjustment under IC 31-34-8;

shall submit to the court in writing under seal that a party to the parenting time proceeding is a person described in subdivision (2)(A) or the child named in the petition is a child described in subdivision (2)(B), (2)(C), or (2)(D).

(b) A court reviewing a petition to establish or modify parenting time may request information from the department of child services regarding a petition or proceeding described in subsection (a)(2). The department shall provide a response under seal to the court's request for information not later than ten (10) days after the department receives the court's request for the information.
As added by P.L.239-2013, SEC.3.

IC 31-14-15

Chapter 15. Temporary Restraining Orders and Permanent Injunctions Against Custodial Parents

IC 31-14-15-1

Parenting time rights; permanent injunction against custodial parent

Sec. 1. A noncustodial parent who:

(1) has been granted parenting time rights with a child who lives with the custodial parent;

(2) regularly pays support ordered by a court for the child; and

(3) is barred by a custodial parent from exercising parenting time rights ordered for the noncustodial parent and the child;

may file, in the court that has jurisdiction over the paternity action, an application for an injunction against the custodial parent under Rule 65 of the Indiana Rules of Trial Procedure.

As added by P.L.1-1997, SEC.6. Amended by P.L.68-2005, SEC.24.

IC 31-14-15-2

Parenting time rights; temporary restraining order against custodial parent

Sec. 2. (a) If:

(1) an application for an injunction is filed under this chapter (or IC 31-6-6.1-12.1 before its repeal); and

(2) the noncustodial parent submits an affidavit as described in subsection (b);

the court may grant, without notice, a temporary restraining order restraining the custodial parent from further violation of the parenting time order.

(b) In the affidavit, the noncustodial parent shall state under penalties for perjury:

(1) that the noncustodial parent has been granted parenting time rights with the child; and

(2) that the noncustodial parent regularly pays the support ordered by a court for the child.

(c) The court shall hold a hearing upon the restraining order at the earliest convenience of the court.

As added by P.L.1-1997, SEC.6. Amended by P.L.68-2005, SEC.25.

IC 31-14-15-3

Security

Sec. 3. (a) This section does not apply to an order under IC 31-14-13-6.5 or IC 31-14-14-2.5.

(b) A court may not require an applicant for a temporary restraining order or an injunction under this chapter (or IC 31-6-6.1-12.1 before its repeal) to give security.

As added by P.L.1-1997, SEC.6. Amended by P.L.171-2001, SEC.6; P.L.207-2013, SEC.43.

IC 31-14-15-4

Remedies for contempt

Sec. 4. A court that finds a violation without justifiable cause by a custodial parent of an injunction or a temporary restraining order issued under this chapter (or IC 31-6-6.1-12.1 before its repeal):

(1) shall find the custodial parent in contempt of court;

(2) shall order the exercise of parenting time that was not exercised due to the violation under this section (or IC 31-6-6.1-12.1(e) before its repeal) at a time the court considers compatible with the schedules of the noncustodial parent and the child;

(3) may order payment by the custodial parent of reasonable attorney's fees, costs, and expenses to the noncustodial parent; and

(4) may order the custodial parent to perform community restitution or service without compensation in a manner specified by the court.

As added by P.L.1-1997, SEC.6. Amended by P.L.32-2000, SEC.17; P.L.68-2005, SEC.26.

IC 31-14-15-5

Additional remedies

Sec. 5. The remedies in this chapter are in addition to and do not limit other civil or criminal remedies available to the noncustodial parent.

As added by P.L.1-1997, SEC.6.

IC 31-14-16
Chapter 16. Protective Orders

IC 31-14-16-1
Protective order; procedure

Sec. 1. A parent may request a court to issue a protective order against the other parent to prevent domestic or family violence at any time after a final decree of paternity is issued under this article (or IC 31-6-6.1 before its repeal) if the parties have an unemancipated child. The parent must file a petition under IC 34-26-5 in the court in which the case is pending, and the court may not require the moving party to give security. If the petitioner requests an ex parte protective order, the court shall immediately:

(1) review the request; and
(2) if required, set a hearing;

under IC 34-26-5. The procedure and law for a proceeding under this section are controlled by IC 34-26-5.

As added by P.L.1-1997, SEC.6. Amended by P.L.133-2002, SEC.26; P.L.221-2003, SEC.4.

IC 31-14-16-2
Repealed

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

IC 31-14-16-3
Repealed

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

IC 31-14-16-4
Repealed

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

IC 31-14-16-5
Repealed

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

IC 31-14-16-6
Repealed

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

IC 31-14-16-7
Repealed

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

IC 31-14-16-8
Repealed

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

IC 31-14-17

Chapter 17. Expenses of Childbirth

IC 31-14-17-1

Expenses of mother's pregnancy and childbirth

Sec. 1. The court shall order the father to pay at least fifty percent (50%) of the reasonable and necessary expenses of the mother's pregnancy and childbirth, including the cost of:

(1) prenatal care;

(2) delivery;

(3) hospitalization; and

(4) postnatal care.

As added by P.L.1-1997, SEC.6. Amended by P.L.138-2001, SEC.10.

IC 31-14-18
Chapter 18. Court Costs

IC 31-14-18-1
Expenses of medical tests

Sec. 1. The court may tax as costs the reasonable expenses of any medical tests authorized under IC 31-14-6 (or IC 31-6-6.1-8 before its repeal).

As added by P.L.1-1997, SEC.6.

IC 31-14-18-2
Costs of maintaining action and attorney's fees

Sec. 2. (a) The court may order a party to pay:

(1) a reasonable amount for the cost to the other party of maintaining an action under this article; and

(2) a reasonable amount for attorney's fees, including amounts for legal services provided and costs incurred, before the commencement of the proceedings or after entry of judgment.

(b) The court may order the amount to be paid directly to the attorney, who may enforce the order in the attorney's name.

(c) Except as otherwise provided by law, neither costs nor attorney's fees may be taxed against an agency or the agency's agents that is authorized to maintain proceedings under this article by Title IV-D of the federal Social Security Act (42 U.S.C. 651 through 669) and IC 31-25-4-17.

As added by P.L.1-1997, SEC.6. Amended by P.L.145-2006, SEC.230.

IC 31-14-19

Chapter 19. Paternity Determination by Foreign Jurisdiction

IC 31-14-19-1

Full faith and credit to paternity determination by foreign jurisdiction

Sec. 1. A court or Title IV-D agency shall give full faith and credit to a paternity determination made by another state or foreign jurisdiction regardless of whether the determination is made through:

(1) a voluntary acknowledgment; or

(2) a judicial or an administrative process.

As added by P.L.1-1997, SEC.6.

IC 31-14-20

Chapter 20. Registration With Putative Father Registry

IC 31-14-20-1

Duty to register

Sec. 1. (a) This section does not apply to a man whose paternity is established under this article (or IC 31-6-6.1 before its repeal) before the filing of a petition to adopt the man's child.

(b) A man who files or is a party to a paternity action under this article shall register with the putative father registry under IC 31-19-5 within the period provided under IC 31-19-5-12.

As added by P.L.1-1997, SEC.6.

IC 31-14-20-2

Failure to register; effect on parental rights in adoption proceedings

Sec. 2. (a) A man who fails to register with the putative father registry as required by section 1 of this chapter waives the right to notice of an adoption of a child who is the subject of the paternity action:

(1) if the adoption is filed before the man establishes paternity; and

(2) in which the child's mother does not disclose to an attorney or agency arranging the adoption the name or address of the child's putative father.

(b) A waiver under this section constitutes the man's irrevocably implied consent to the child's adoption.

As added by P.L.1-1997, SEC.6.

IC 31-14-21

Chapter 21. Requirements When Adoption Pending for Child Who Is Subject of Paternity Action

IC 31-14-21-1

Applicability of IC 31-14-21-1 through IC 31-14-21-7

Sec. 1. Sections 1 through 7 of this chapter apply if a man who files or is a party to a paternity action under this article (or IC 31-6-6.1 before its repeal) is:

(1) served with notice under:

(A) IC 31-19-3 (or IC 31-3-1-6.4 before its repeal); or

(B) IC 31-19-4-1 through IC 31-19-4-9 (or IC 31-3-1-6.1 before its repeal); or

(2) informed in any other manner;

of a pending or potential adoption of a child who is the subject of the paternity action.

As added by P.L.1-1997, SEC.6.

IC 31-14-21-2

Nonapplicability of IC 31-14-21-1 through IC 31-14-21-7

Sec. 2. Sections 1 through 7 of this chapter do not apply to a man whose paternity of a child is established before the filing of a petition to adopt the man's child.

As added by P.L.1-1997, SEC.6.

IC 31-14-21-3

Putative father's notice of paternity action; notice to attorney or agency in adoption proceedings

Sec. 3. A putative father shall give notice of the paternity action to an attorney or agency that serves the putative father with notice as described in section 1(1) of this chapter.

As added by P.L.1-1997, SEC.6.

IC 31-14-21-4

Putative father's notice of paternity action; notice to clerk having jurisdiction over adoption

Sec. 4. A putative father who has not been served with notice of a paternity action as described in section 1(1) of this chapter but knows:

(1) that an adoption has been filed; and

(2) the court in which the adoption is pending;

shall serve the clerk of the court having jurisdiction over the adoption with notice of the paternity action.

As added by P.L.1-1997, SEC.6.

IC 31-14-21-5

Content of notice

Sec. 5. The notice required by sections 3 and 4 of this chapter must include:

(1) the name of the court;

(2) the cause number; and
(3) the date of filing;
of the paternity action.
As added by P.L.1-1997, SEC.6.

IC 31-14-21-6
Failure to provide notice; intervention by adoptive parents
Sec. 6. If:
(1) a putative father fails to provide notice under section 3 or 4 of this chapter; and
(2) the prospective adoptive parents file a motion to intervene;
the court with jurisdiction over the paternity action shall allow the prospective adoptive parents to intervene in the paternity action under Rule 24 of the Indiana Rules of Trial Procedure as described in section 8 of this chapter.
As added by P.L.1-1997, SEC.6.

IC 31-14-21-7
Failure to provide notice; vacation of paternity determination; intervention by adoptive parents
Sec. 7. If the court has already established the paternity of a father who fails to provide notice under section 3 or 4 of this chapter and the prospective adoptive parents file a motion to intervene, the court shall:
(1) set aside the paternity determination to reinstate the paternity action; and
(2) allow the prospective adoptive parents to intervene as described in section 6 of this chapter.
As added by P.L.1-1997, SEC.6.

IC 31-14-21-8
Intervention by adoptive parents; purposes of intervention; objections to errors in paternity proceedings
Sec. 8. (a) If:
(1) an adoption of a child who is the subject of the paternity action is pending; and
(2) the prospective adoptive parents file a motion to intervene;
the court having jurisdiction over the paternity action under this article shall allow the prospective adoptive parents to intervene in the paternity action under Rule 24 of the Indiana Rules of Trial Procedure.
(b) The prospective adoptive parents may intervene under this section solely for purposes of:
(1) receiving notice of the paternity proceedings; and
(2) attempting to ensure that the putative father's paternity is not established unless the putative father is the child's biological father.
(c) A prospective adoptive parent may object to any error that occurs during the paternity proceedings.
As added by P.L.1-1997, SEC.6.

IC 31-14-21-9
Duty of court with jurisdiction to establish paternity within period prescribed by chapter

Sec. 9. (a) Except as provided under section 13 of this chapter and subject to IC 31-19-2-14, if a court presiding over a paternity action under this article knows of:

(1) a pending adoption of a child who is the subject of the paternity action; and

(2) the court in which the adoption is pending;

the court having jurisdiction over the paternity action shall establish a child's paternity within the period prescribed by this chapter.

(b) Except as provided under section 13 of this chapter and subject to IC 31-19-2-14, the court shall conduct an initial hearing not more than thirty (30) days after:

(1) the filing of the paternity petition; or

(2) the birth of the child;

whichever occurs later.

As added by P.L.1-1997, SEC.6. Amended by P.L.200-1999, SEC.3; P.L.61-2003, SEC.1; P.L.58-2009, SEC.5.

IC 31-14-21-9.1
Duty of court to order blood or genetic testing

Sec. 9.1. (a) Except as provided under section 13 of this chapter and subject to IC 31-19-2-14, at the initial hearing held under section 9 of this chapter, the court shall order all the parties to the paternity action to undergo blood or genetic testing.

(b) If the alleged father is unable to pay for the initial costs of the testing, the court shall order that the tests be paid by the state department of health from putative father registry fees collected under IC 31-19-2-8(2). The state department of health may recover costs from an individual found to be the biological father of the child in the action.

As added by P.L.200-1999, SEC.4. Amended by P.L.58-2009, SEC.6.

IC 31-14-21-9.2
Final hearing to determine paternity and ruling

Sec. 9.2. Subject to IC 31-19-2-14 and section 13 of this chapter, not later than ninety (90) days after the initial hearing held under section 9 of this chapter, the court shall conduct a final hearing to determine paternity. Not more than fourteen (14) days after the final hearing, the court shall issue its ruling in the paternity action.

As added by P.L.200-1999, SEC.5. Amended by P.L.58-2009, SEC.7.

IC 31-14-21-10
Repealed

(Repealed by P.L.200-1999, SEC.34.)

IC 31-14-21-11
Repealed

(Repealed by P.L.200-1999, SEC.34.)

IC 31-14-21-12
Repealed

(Repealed by P.L.200-1999, SEC.34.)

IC 31-14-21-13
Stay proceedings in paternity action

Sec. 13. Upon notice that a court in which an adoption is pending has assumed jurisdiction of a paternity action under IC 31-19-2-14, the court in which the paternity action was pending shall stay all proceedings in the paternity action until further order from the court in which the adoption is pending.

As added by P.L.58-2009, SEC.8.

IC 31-15

ARTICLE 15. FAMILY LAW: DISSOLUTION OF MARRIAGE AND LEGAL SEPARATION

IC 31-15-1

Chapter 1. General Provisions

IC 31-15-1-1

Construction and application of article

Sec. 1. This article shall be construed and applied to promote the purposes and policies of this article.

As added by P.L.1-1997, SEC.7.

IC 31-15-1-2

Purposes and policies of article

Sec. 2. The purposes and policies of this article are as follows:

(1) To abolish the existing grounds for absolute and limited divorce and to provide as the basis for dissolution of marriage:

(A) irretrievable breakdown of the marriage;

(B) the conviction of either party, subsequent to the marriage, of a felony;

(C) impotence existing at the time of the marriage; and

(D) incurable insanity of either party for a period of at least two (2) years.

(2) To provide for the appropriate procedures for the dissolution of marriage.

(3) To provide for the disposition of property, child support, and child custody.

(4) To provide for separation agreements.

(5) To provide for a temporary legal separation.

As added by P.L.1-1997, SEC.7.

IC 31-15-2

Chapter 2. Actions for Dissolution of Marriage

IC 31-15-2-1

Applicability of Indiana Rules of Civil Procedure

Sec. 1. Proceedings under this article must comply with the Indiana Rules of Civil Procedure.

As added by P.L.1-1997, SEC.7.

IC 31-15-2-2

Cause of action established

Sec. 2. A cause of action for dissolution of marriage is established.

As added by P.L.1-1997, SEC.7.

IC 31-15-2-3

Grounds for decree

Sec. 3. Dissolution of marriage shall be decreed upon a finding by a court of one (1) of the following grounds and no other ground:

(1) Irretrievable breakdown of the marriage.

(2) The conviction of either of the parties, subsequent to the marriage, of a felony.

(3) Impotence, existing at the time of the marriage.

(4) Incurable insanity of either party for a period of at least two (2) years.

As added by P.L.1-1997, SEC.7.

IC 31-15-2-4

Caption

Sec. 4. A proceeding for dissolution of marriage is commenced by the filing of a petition entitled, "In Re the marriage of _____ and _____."

As added by P.L.1-1997, SEC.7.

IC 31-15-2-5

Verified petition; averments; guardian filing petition

Sec. 5. (a) A petition for dissolution of marriage must:

(1) be verified; and

(2) set forth the following:

(A) The residence of each party and the length of residence in the state and county.

(B) The date of the marriage.

(C) The date on which the parties separated.

(D) The name, age, and address of:

(i) any living child less than twenty-one (21) years of age; and

(ii) any incapacitated child;

of the marriage and whether the wife is pregnant.

(E) The grounds for dissolution of the marriage.

(F) The relief sought.

(G) If a guardian of an incapacitated person is filing the

petition for dissolution of marriage on behalf of the incapacitated person, the name and address of the guardian.

(b) If a guardian of an incapacitated person files a petition for dissolution of a marriage on behalf of the incapacitated person, the guardian shall file with the petition a copy of the court order granting authority to petition for dissolution of marriage described in IC 29-3-9-12.2.

As added by P.L.1-1997, SEC.7. Amended by P.L.83-2014, SEC.13.

IC 31-15-2-6

Residence; filing in county of guardian's residence

Sec. 6. (a) At the time of the filing of a petition under section 4 of this chapter, at least one (1) of the parties must have been:

(1) a resident of Indiana; or

(2) stationed at a United States military installation within Indiana;

for six (6) months immediately preceding the filing of the petition.

(b) Except as provided in subsection (c), at the time of the filing of a petition under section 4 of this chapter, at least one (1) of the parties must have been:

(1) a resident of the county; or

(2) stationed at a United States military installation within the county;

where the petition is filed for three (3) months immediately preceding the filing of the petition.

(c) If a court has authorized a guardian to file a petition under section 4 of this chapter on behalf of an incapacitated person under IC 29-3-9-12.2, the guardian may file the petition for dissolution in the guardian's county of residence if the guardian has resided in that county for at least three (3) months immediately preceding the filing of the petition.

As added by P.L.1-1997, SEC.7. Amended by P.L.83-2014, SEC.14.

IC 31-15-2-7

Venue; legal separation proceeding pending or order in effect; disposition

Sec. 7. (a) A petition or counter petition for dissolution of marriage must be filed in the court in which:

(1) a legal separation proceeding is pending; or

(2) a provisional order or decree for legal separation is in effect;

if the petition for legal separation was filed before the petition or counter petition for dissolution of marriage.

(b) If a petition or counter petition for dissolution of marriage under section 4 of this chapter is filed while a provisional order or decree for legal separation is in effect, the procedure for dissolution of marriage continues. The provisional order or decree for legal separation remains in effect only:

(1) until the effective date of the provisional order on the petition or counter petition for dissolution; or

(2) until the provisional order or decree for legal separation

expires;

whichever occurs first.

(c) The court shall dismiss a petition for legal separation if, at the time the petition for dissolution is filed, neither:

(1) a provisional order; nor

(2) a decree for legal separation;

has been granted.

As added by P.L.1-1997, SEC.7.

IC 31-15-2-8

Service of petition and summons

Sec. 8. Whenever a petition is filed, a copy of the petition, including a copy of a summons, shall be served upon the other party to the marriage in the same manner as service of summons in civil actions generally.

As added by P.L.1-1997, SEC.7.

IC 31-15-2-9

Responsive pleading or counter petition

Sec. 9. A responsive pleading or a counter petition may be filed under this chapter.

As added by P.L.1-1997, SEC.7.

IC 31-15-2-10

Final hearing

Sec. 10. Except as provided in sections 13 and 14 of this chapter, in an action for a dissolution of marriage under section 2 of this chapter, a final hearing shall be conducted not earlier than sixty (60) days after the filing of the petition.

As added by P.L.1-1997, SEC.7.

IC 31-15-2-11

Final hearing; action for legal separation pending when action for dissolution of marriage filed

Sec. 11. If a petition has been filed in an action for legal separation under IC 31-15-3-2 (or IC 31-1-11.5-3(c) before its repeal), a final hearing on a petition or counter petition subsequently filed in an action for dissolution of marriage under section 2 of this chapter (or IC 31-1-11.5-3(a) before its repeal) may be held at any time after sixty (60) days after the petition in an action for legal separation under IC 31-15-3-2 has been filed.

As added by P.L.1-1997, SEC.7.

IC 31-15-2-12

Motion to dismiss by party who filed action; counter petition; hearing

Sec. 12. (a) This section applies if a party who filed an action for dissolution of marriage under section 2 of this chapter (or IC 31-1-11.5-3(a) before its repeal) files a motion to dismiss the action.

(b) A party that files an action shall serve each other party to the action with a copy of the motion.

(c) A party to the action may file a counter petition under section 2 of this chapter not later than five (5) days after the filing of the motion to dismiss. If a party files a counter petition under this subsection, the court shall set the petition and counter petition for final hearing not earlier than sixty (60) days after the initial petition was filed.

As added by P.L.1-1997, SEC.7.

IC 31-15-2-13

Summary dissolution decree

Sec. 13. At least sixty (60) days after a petition is filed in an action for dissolution of marriage under section 2 of this chapter, the court may enter a summary dissolution decree without holding a final hearing under this chapter if there have been filed with the court verified pleadings, signed by both parties, containing:

(1) a written waiver of final hearing; and

(2) either:

(A) a statement that there are no contested issues in the action; or

(B) a written agreement made in accordance with section 17 of this chapter that settles any contested issues between the parties.

As added by P.L.1-1997, SEC.7.

IC 31-15-2-14

Bifurcation of issues; summary disposition orders

Sec. 14. (a) The court may bifurcate the issues in an action for dissolution of marriage filed under section 2 of this chapter (or IC 31-1-11.5-3(a) before its repeal) to provide for a summary disposition of uncontested issues and a final hearing of contested issues. The court may enter a summary disposition order under this section upon the filing with the court of verified pleadings, signed by both parties, containing:

(1) a written waiver of a final hearing in the matter of:

(A) uncontested issues specified in the waiver; or

(B) contested issues specified in the waiver upon which the parties have reached an agreement;

(2) a written agreement made in accordance with section 17 of this chapter pertaining to contested issues settled by the parties; and

(3) a statement:

(A) specifying contested issues remaining between the parties; and

(B) requesting the court to order a final hearing as to contested issues to be held under this chapter.

(b) The court shall include in a summary disposition order entered under this section a date for a final hearing of contested issues.

As added by P.L.1-1997, SEC.7.

IC 31-15-2-15
Final hearing; evidence; dissolution decree; continuance; motion for dissolution

Sec. 15. (a) At the final hearing on a petition for dissolution of marriage the court shall consider evidence, including agreements and verified pleadings filed with the court. If the court finds that the material allegations of the petition are true, the court:

(1) shall enter a dissolution decree as provided in section 16 of this chapter; or

(2) if the court finds that there is a reasonable possibility of reconciliation, may continue the matter and order the parties to seek reconciliation through any available counseling.

(b) At any time forty-five (45) days after the date of a continuance:

(1) either party may move for the dissolution of the marriage; and

(2) the court may enter a dissolution decree as provided in section 16 of this chapter.

(c) If no motion for the dissolution is filed, the matter shall be, automatically and without further action by the court, dismissed after the expiration of ninety (90) days from the date of continuance.

As added by P.L.1-1997, SEC.7.

IC 31-15-2-16
Dissolution decree; scope; finality; remarriage pending appeal

Sec. 16. (a) The court shall enter a dissolution decree:

(1) when the court has made the findings required by section 15 of this chapter; or

(2) upon the filing of pleadings under section 13 of this chapter.

The decree may include orders as provided for in this article.

(b) A dissolution decree is final when entered, subject to the right of appeal.

(c) An appeal from the provisions of a dissolution decree that does not challenge the findings as to the dissolution of the marriage does not delay the finality of the provision of the decree that dissolves the marriage, so that the parties may remarry pending appeal.

As added by P.L.1-1997, SEC.7.

IC 31-15-2-17
Agreements

Sec. 17. (a) To promote the amicable settlements of disputes that have arisen or may arise between the parties to a marriage attendant upon the dissolution of their marriage, the parties may agree in writing to provisions for:

(1) the maintenance of either of the parties;

(2) the disposition of any property owned by either or both of the parties; and

(3) the custody and support of the children of the parties.

(b) In an action for dissolution of marriage:

(1) the terms of the agreement, if approved by the court, shall be

incorporated and merged into the decree and the parties shall be ordered to perform the terms; or

(2) the court may make provisions for:

(A) the disposition of property;

(B) child support;

(C) maintenance; and

(D) custody;

as provided in this title.

(c) The disposition of property settled by an agreement described in subsection (a) and incorporated and merged into the decree is not subject to subsequent modification by the court, except as the agreement prescribes or the parties subsequently consent.

As added by P.L.1-1997, SEC.7.

IC 31-15-2-18

Name change of woman

Sec. 18. A woman who desires the restoration of her maiden or previous married name must set out the name she desires to be restored to her in her petition for dissolution as part of the relief sought. The court shall grant the name change upon entering the decree of dissolution.

As added by P.L.1-1997, SEC.7.

IC 31-15-3

Chapter 3. Actions for Legal Separation

IC 31-15-3-1

Applicability of Indiana Rules of Civil Procedure

Sec. 1. Proceedings under this article must comply with the Indiana Rules of Civil Procedure.

As added by P.L.1-1997, SEC.7.

IC 31-15-3-2

Cause of action established

Sec. 2. A cause of action for legal separation is established.

As added by P.L.1-1997, SEC.7.

IC 31-15-3-3

Findings required for decree

Sec. 3. Legal separation shall be decreed upon a finding by a court:

(1) that conditions in or circumstances of the marriage make it currently intolerable for both parties to live together; and

(2) that the marriage should be maintained.

As added by P.L.1-1997, SEC.7.

IC 31-15-3-4

Caption; verified petition; averments; guardian filing petition

Sec. 4. (a) A proceeding for legal separation is commenced by the filing of a petition entitled, "In Re the legal separation of _____ and _____". The petition must:

(1) be verified; and

(2) set forth the following:

(A) The residence of each party and the length of residence in the state and county.

(B) The date of the marriage.

(C) The date on which the parties separated.

(D) The names, ages, and addresses of:

(i) any living child less than twenty-one (21) years of age; and

(ii) any incapacitated child;

of the marriage and whether the wife is pregnant.

(E) The grounds for legal separation.

(F) The relief sought.

(G) If a guardian of an incapacitated person is filing the petition for legal separation on behalf of the incapacitated person, the name and address of the guardian.

(b) If a guardian of an incapacitated person files a petition for legal separation on behalf of the incapacitated person, the guardian shall file with the petition a copy of the court order granting authority to petition for legal separation described in IC 29-3-9-12.2.

As added by P.L.1-1997, SEC.7. Amended by P.L.83-2014, SEC.15.

IC 31-15-3-5
Dissolution of marriage action; provisional order or decree as bar to legal separation proceeding

Sec. 5. A proceeding may not be commenced under section 4 of this chapter if:

(1) an action for dissolution of marriage filed under IC 31-15-2-4 (or IC 31-1-11.5-3(a) before its repeal) is pending; or

(2) a provisional order or decree based on a petition for dissolution of marriage filed under IC 31-15-2-4 (or IC 31-1-11.5-3(a) before its repeal) has been granted.

As added by P.L.1-1997, SEC.7.

IC 31-15-3-6
Residence; filing in county of guardian's residence

Sec. 6. (a) At the time of the filing of a petition for legal separation under section 4 of this chapter, at least one (1) of the parties must have been:

(1) a resident of Indiana; or

(2) stationed at a United States military installation within Indiana;

for six (6) months immediately preceding the filing of each petition.

(b) Except as provided in subsection (c), at the time of the filing of a petition for legal separation under section 4 of this chapter, at least one (1) of the parties must have been:

(1) a resident of the county; or

(2) stationed at a United States military installation within the county;

where the petition is filed for three (3) months immediately preceding the filing of the petition.

(c) If a court has authorized a guardian to file a petition for legal separation under section 4 of this chapter on behalf of an incapacitated person under IC 29-3-9-12.2, the guardian may file the petition in the guardian's county of residence if the guardian has resided in that county for at least three (3) months immediately preceding the filing of the petition.

As added by P.L.1-1997, SEC.7. Amended by P.L.83-2014, SEC.16.

IC 31-15-3-7
Service of petition and summons

Sec. 7. Whenever a petition is filed, a copy of the petition, including a copy of a summons, shall be served upon the other party to the marriage in the same manner as service of summons in civil actions generally.

As added by P.L.1-1997, SEC.7.

IC 31-15-3-8
Responsive pleading or counter petition

Sec. 8. A responsive pleading or a counter petition may be filed under this chapter.

As added by P.L.1-1997, SEC.7.

IC 31-15-3-9
Decree; term; findings

Sec. 9. In an action for legal separation under section 2 of this chapter, the court may grant a decree for a separation of the parties to the marriage for a period not to exceed one (1) year if the court finds that:

(1) conditions in or circumstances of the marriage make it currently intolerable for both parties to live together;
(2) the marriage should be maintained; and
(3) neither party has filed a petition or counter petition for dissolution of marriage under IC 31-15-2 (or IC 31-1-11.5 before its repeal).

As added by P.L.1-1997, SEC.7.

IC 31-15-3-10
Scope of decree

Sec. 10. A decree under this chapter may include orders as provided in this article.

As added by P.L.1-1997, SEC.7.

IC 31-15-3-11
Maintenance

Sec. 11. A decree under this chapter may not include a maintenance provision that extends beyond the period of legal separation.

As added by P.L.1-1997, SEC.7.

IC 31-15-4

Chapter 4. Provisional Orders in Dissolution and Legal Separation Actions

IC 31-15-4-1

Motions

Sec. 1. (a) In an action for dissolution of marriage under IC 31-15-2 or legal separation under IC 31-15-3, either party may file a motion for any of the following:

(1) Temporary maintenance.

(2) Temporary support or custody of a child of the marriage entitled to support.

(3) Possession of property.

(4) Counseling.

(5) A protective order under IC 34-26-5.

(b) If a party desires a protective order under subsection (a)(5), the party must file a petition under IC 34-26-5 in the court in which the case is pending, and the court may not require the moving party to give security. If the petitioner requests an ex parte protective order, the court shall immediately:

(1) review the request; and

(2) if required, set a hearing;

under IC 34-26-5. The procedure and law for a proceeding under this subsection are controlled by IC 34-26-5.

As added by P.L.1-1997, SEC.7. Amended by P.L.133-2002, SEC.27; P.L.221-2003, SEC.5.

IC 31-15-4-2

Supporting affidavit

Sec. 2. Except for a protective order under section 1 of this chapter, the motion must be accompanied by an affidavit setting forth the following:

(1) The factual basis for the motion.

(2) The amounts requested or other relief sought.

As added by P.L.1-1997, SEC.7. Amended by P.L.133-2002, SEC.28.

IC 31-15-4-3

Motion for temporary restraining order

Sec. 3. As a part of a motion for temporary maintenance, for support or custody of a child, or for possession of property under section 1 of this chapter or by independent motion accompanied by affidavit, either party may request the court to issue a temporary restraining order:

(1) restraining any person from transferring, encumbering, concealing, or in any way disposing of any property, except in the usual course of business or for the necessities of life; or

(2) granting temporary possession of property to either party.

As added by P.L.1-1997, SEC.7. Amended by P.L.133-2002, SEC.29.

IC 31-15-4-4

Hearing of motions

Sec. 4. The motion for temporary maintenance, support or custody of a child, or possession of property under section 1 of this chapter shall be set for hearing by the court.

As added by P.L.1-1997, SEC.7.

IC 31-15-4-5

Preliminary hearing of petition for temporary support or custody of child

Sec. 5. The court shall immediately schedule a preliminary hearing upon the filing of a petition for:

(1) temporary child support; or

(2) temporary custody of a child entitled to support.

As added by P.L.1-1997, SEC.7.

IC 31-15-4-6

Determination

Sec. 6. The court shall determine:

(1) after the hearing; and

(2) not later than twenty-one (21) days after the petition is filed; whether to grant or deny the petition.

As added by P.L.1-1997, SEC.7.

IC 31-15-4-7

Temporary restraining order

Sec. 7. The court may issue a temporary restraining order if the court finds on the basis of the moving party's affidavit that injury would result to the moving party if an immediate order were not issued.

As added by P.L.1-1997, SEC.7.

IC 31-15-4-8

Temporary orders

Sec. 8. (a) The court may issue an order for temporary maintenance or support in such amounts and on such terms that are just and proper. However, the court shall require that the support payments be made through the clerk of the circuit court as trustee for remittance to the person entitled to receive benefits, unless the court has reasonable grounds for providing or approving another method of payment.

(b) The court may issue:

(1) a temporary restraining order;

(2) a custody order; or

(3) an order for possession of property;

to the extent the court considers proper.

As added by P.L.1-1997, SEC.7.

IC 31-15-4-9

Counseling

Sec. 9. The court may require the parties to seek counseling for

themselves or for a child of the parties under such terms and conditions that the court considers appropriate if:

(1) either party makes a motion for counseling in an effort to improve conditions of their marriage;

(2) a party, the child of the parties, the child's guardian ad litem or court appointed special advocate, or the court makes a motion for counseling for the child; or

(3) the court makes a motion for counseling for parties who are the parents of a child less than eighteen (18) years of age.

As added by P.L.1-1997, SEC.7.

IC 31-15-4-10

Joint counseling

Sec. 10. The court may not require joint counseling of the parties under section 9 of this chapter:

(1) without the consent of both parties; or

(2) if there is evidence that the other party has demonstrated a pattern of domestic or family violence against a family or household member.

As added by P.L.1-1997, SEC.7. Amended by P.L.133-2002, SEC.30.

IC 31-15-4-11

Change of venue or change from judge; effect on jurisdiction

Sec. 11. The filing by either party of a motion for change of venue or change from the judge during the period before the court makes a determination under section 6 of this chapter does not divest the court of jurisdiction to:

(1) hear evidence upon the petition;

(2) set an amount of temporary child support;

(3) determine temporary custody; or

(4) order appropriate parenting time.

As added by P.L.1-1997, SEC.7. Amended by P.L.68-2005, SEC.27.

IC 31-15-4-12

Change of venue or change from judge; effect on provisional orders

Sec. 12. If the court grants a change of venue or change from the judge after the preliminary order of support, custody, or parenting time is issued, either party may:

(1) file a petition for a subsequent preliminary hearing on the issue of temporary child support, temporary custody, or parenting time;

(2) seek relief from the original order; and

(3) request that the court conduct a hearing relating to any other temporary order available under this article.

As added by P.L.1-1997, SEC.7. Amended by P.L.68-2005, SEC.28.

IC 31-15-4-13

Provisional order; rights not prejudiced

Sec. 13. The issuance of a provisional order is without prejudice to the rights of the parties or the child as adjudicated at the final

hearing in the proceeding.
As added by P.L.1-1997, SEC.7.

IC 31-15-4-14
Provisional order; termination

Sec. 14. A provisional order terminates when:

(1) the final decree is entered subject to right of appeal; or

(2) the petition for dissolution or legal separation is dismissed.

As added by P.L.1-1997, SEC.7.

IC 31-15-4-15
Provisional order; revocation or modification

Sec. 15. The terms of a provisional order may be revoked or modified before the final decree on a showing of the facts appropriate to revocation or modification.
As added by P.L.1-1997, SEC.7.

IC 31-15-4-16
Repealed

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

IC 31-15-5

Chapter 5. Protective Orders in Dissolution and Legal Separation Actions

IC 31-15-5-1

Protective order; procedure

Sec. 1. Either party may request a protective order to prevent domestic or family violence at any time during the dissolution of marriage or legal separation action by filing a petition under IC 34-26-5 in the court in which the case is pending. The court may not require the moving party to give security. If the petitioner requests an ex parte protective order, the court shall immediately:

(1) review the request; and

(2) if required, set a hearing;

under IC 34-26-5. The procedure and law for a proceeding under this section are controlled by IC 34-26-5.

As added by P.L.1-1997, SEC.7. Amended by P.L.197-1997, SEC.6; P.L.133-2002, SEC.31; P.L.221-2003, SEC.6.

IC 31-15-5-2

Repealed

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

IC 31-15-5-3

Repealed

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

IC 31-15-5-4

Repealed

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

IC 31-15-5-5

Repealed

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

IC 31-15-5-6

Repealed

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

IC 31-15-5-7

Repealed

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

IC 31-15-5-8

Repealed

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

IC 31-15-5-9

Repealed

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

IC 31-15-5-10
Repealed
(Repealed by P.L.133-2002, SEC.69.)

IC 31-15-5-11
Repealed
(Repealed by P.L.133-2002, SEC.69.)

IC 31-15-6

Chapter 6. Appointment of Guardians Ad Litem and Court Appointed Special Advocates in Dissolution and Legal Separation Actions

IC 31-15-6-1

Appointment

Sec. 1. A court in a proceeding under this article may appoint:

(1) a guardian ad litem;

(2) a court appointed special advocate; or

(3) both;

for a child at any time.

As added by P.L.1-1997, SEC.7.

IC 31-15-6-2

Persons ineligible for appointment

Sec. 2. A court may not appoint a party to the proceedings, the party's employee, or the party's representative as the:

(1) guardian ad litem;

(2) court appointed special advocate;

(3) guardian ad litem program; or

(4) court appointed special advocate program;

for a child who is involved in the proceedings.

As added by P.L.1-1997, SEC.7.

IC 31-15-6-3

Protection of best interests of the child

Sec. 3. A guardian ad litem or court appointed special advocate shall represent and protect the best interests of the child.

As added by P.L.1-1997, SEC.7.

IC 31-15-6-4

Term of appointment

Sec. 4. A guardian ad litem or court appointed special advocate serves until the court enters an order for removal.

As added by P.L.1-1997, SEC.7.

IC 31-15-6-5

Officers of the court

Sec. 5. The guardian ad litem or the court appointed special advocate, or both, are considered officers of the court for the purpose of representing the child's interests.

As added by P.L.1-1997, SEC.7.

IC 31-15-6-6

Representation by attorney

Sec. 6. The guardian ad litem or the court appointed special advocate may be represented by an attorney. If necessary to protect the child's interests, the court may appoint an attorney to represent the guardian ad litem or the court appointed special advocate.

As added by P.L.1-1997, SEC.7.

IC 31-15-6-7
Subpoena powers; presentation of evidence

Sec. 7. A guardian ad litem or court appointed special advocate appointed by a court under this chapter (or IC 31-1-11.5-28 before its repeal) may subpoena witnesses and present evidence regarding:

(1) the supervision of the action; or

(2) any investigation and report that the court requires of the guardian ad litem or court appointed special advocate.

As added by P.L.1-1997, SEC.7.

IC 31-15-6-8
Continuing supervision

Sec. 8. The court may order a guardian ad litem or court appointed special advocate appointed by a court under this chapter (or IC 31-1-11.5-28 before its repeal) to exercise continuing supervision over the child to assure that the custodial or parenting time terms of an order entered by the court under this article (or IC 31-1-11.5 before its repeal) are carried out as required by the court.

As added by P.L.1-1997, SEC.7. Amended by P.L.68-2005, SEC.29.

IC 31-15-6-9
Civil immunity

Sec. 9. Except for gross misconduct:

(1) a guardian ad litem;

(2) a court appointed special advocate;

(3) an employee of a county guardian ad litem or court appointed special advocate program; or

(4) a volunteer for a guardian ad litem or court appointed special advocate program;

who performs duties in good faith is immune from any civil liability that may occur as a result of that person's performance.

As added by P.L.1-1997, SEC.7.

IC 31-15-6-10
User fee; order for payment

Sec. 10. The court may order either or both parents of a child for whom a guardian ad litem or court appointed special advocate is appointed under this chapter (or IC 31-1-11.5-28 before its repeal) to pay a user fee for the services provided under this chapter.

As added by P.L.1-1997, SEC.7.

IC 31-15-6-11
User fee; collection procedures

Sec. 11. The court shall establish one (1) of the following procedures to be used to collect the user fee:

(1) The court may order the clerk of the court to collect the user fee and deposit the user fee into the county's guardian ad litem fund or court appointed special advocate fund. The fiscal body

of the county shall appropriate money collected as user fees under this chapter to the court having jurisdiction over custody actions for the court's use in providing guardian ad litem or court appointed special advocate services, including the costs of representation.

(2) The court may order either or both parents to pay the user fee to the:

(A) guardian ad litem program that provided the services; or

(B) court appointed special advocate program that provided the services.

(3) The court may order either or both parents to pay the user fee to the individual or attorney guardian ad litem that provided the services.

As added by P.L.1-1997, SEC.7.

IC 31-15-6-12

Funds

Sec. 12. Money remaining in a county's:

(1) guardian ad litem fund; or

(2) court appointed special advocate fund;

at the end of the county's fiscal year does not revert to any other fund.

As added by P.L.1-1997, SEC.7.

IC 31-15-6-13

User fee; report of receipt of payment

Sec. 13. If the court orders either or both parents to pay the user fee according to section 11(2) or 11(3) of this chapter, the program or the individual or attorney guardian ad litem shall report to the court the receipt of payment not later than thirty (30) days after receiving the payment.

As added by P.L.1-1997, SEC.7.

IC 31-15-7

Chapter 7. Disposition of Property and Maintenance

IC 31-15-7-0.2

Application of certain amendments to prior law

Sec. 0.2. The rebuttable presumption established under IC 31-1-11.5-11(c) (before its repeal, now codified at section 5 of this chapter), as amended by P.L.283-1987, does not apply to the division of marital property in actions for marriage dissolution filed before September 1, 1987.

As added by P.L.220-2011, SEC.498.

IC 31-15-7-0.3

General assembly declarations

Sec. 0.3. The general assembly:

(1) recognizes that reform of certain elements concerning the manner in which property of spouses is transferred upon the death of a spouse, when there is no will, has become necessary;

(2) recognizes inconsistencies in the manner in which the property of spouses is divided at marriage dissolution have become apparent;

(3) sees the need for spouses to be able to enter into a legal agreement during their lifetime, concerning which of their property shall be considered individually owned and which of their property shall be considered jointly owned; and

(4) agrees to enact the Property and Inheritance Rights of Spouses Act (amendments made to IC 29-1-2-1, IC 29-1-2-13, IC 29-1-3-6, and IC 31-1-11.5-11, before its repeal, now codified at IC 31-15-7-2 and IC 31-15-7-5).

As added by P.L.220-2011, SEC.499.

IC 31-15-7-1

Order for maintenance

Sec. 1. The court may order maintenance in:

(1) final dissolution of marriage decrees entered under IC 31-15-2-16; and

(2) legal separation decrees entered under IC 31-15-3-9;

after making the findings required by section 2 of this chapter.

As added by P.L.1-1997, SEC.7. Amended by P.L.197-1997, SEC.8.

IC 31-15-7-2

Findings concerning maintenance

Sec. 2. A court may make the following findings concerning maintenance:

(1) If the court finds a spouse to be physically or mentally incapacitated to the extent that the ability of the incapacitated spouse to support himself or herself is materially affected, the court may find that maintenance for the spouse is necessary during the period of incapacity, subject to further order of the court.

(2) If the court finds that:

(A) a spouse lacks sufficient property, including marital property apportioned to the spouse, to provide for the spouse's needs; and

(B) the spouse is the custodian of a child whose physical or mental incapacity requires the custodian to forgo employment;

the court may find that maintenance is necessary for the spouse in an amount and for a period of time that the court considers appropriate.

(3) After considering:

(A) the educational level of each spouse at the time of marriage and at the time the action is commenced;

(B) whether an interruption in the education, training, or employment of a spouse who is seeking maintenance occurred during the marriage as a result of homemaking or child care responsibilities, or both;

(C) the earning capacity of each spouse, including educational background, training, employment skills, work experience, and length of presence in or absence from the job market; and

(D) the time and expense necessary to acquire sufficient education or training to enable the spouse who is seeking maintenance to find appropriate employment;

a court may find that rehabilitative maintenance for the spouse seeking maintenance is necessary in an amount and for a period of time that the court considers appropriate, but not to exceed three (3) years from the date of the final decree.

As added by P.L.1-1997, SEC.7.

IC 31-15-7-3
Modification or revocation of order for maintenance

Sec. 3. Provisions of an order with respect to maintenance ordered under section 1 of this chapter (or IC 31-1-11.5-9(c) before its repeal) may be modified or revoked. Except as provided in IC 31-16-8-2, modification may be made only:

(1) upon a showing of changed circumstances so substantial and continuing as to make the terms unreasonable; or

(2) upon a showing that:

(A) a party has been ordered to pay an amount in child support that differs by more than twenty percent (20%) from the amount that would be ordered by applying the child support guidelines; and

(B) the order requested to be modified or revoked was issued at least twelve (12) months before the petition requesting modification was filed.

As added by P.L.1-1997, SEC.7.

IC 31-15-7-4
Division of property

Sec. 4. (a) In an action for dissolution of marriage under IC 31-15-2-2, the court shall divide the property of the parties, whether:

(1) owned by either spouse before the marriage;

(2) acquired by either spouse in his or her own right:

(A) after the marriage; and

(B) before final separation of the parties; or

(3) acquired by their joint efforts.

(b) The court shall divide the property in a just and reasonable manner by:

(1) division of the property in kind;

(2) setting the property or parts of the property over to one (1) of the spouses and requiring either spouse to pay an amount, either in gross or in installments, that is just and proper;

(3) ordering the sale of the property under such conditions as the court prescribes and dividing the proceeds of the sale; or

(4) ordering the distribution of benefits described in IC 31-9-2-98(b)(2) or IC 31-9-2-98(b)(3) that are payable after the dissolution of marriage, by setting aside to either of the parties a percentage of those payments either by assignment or in kind at the time of receipt.

As added by P.L.1-1997, SEC.7.

IC 31-15-7-5

Presumption for equal division of marital property; rebuttal

Sec. 5. The court shall presume that an equal division of the marital property between the parties is just and reasonable. However, this presumption may be rebutted by a party who presents relevant evidence, including evidence concerning the following factors, that an equal division would not be just and reasonable:

(1) The contribution of each spouse to the acquisition of the property, regardless of whether the contribution was income producing.

(2) The extent to which the property was acquired by each spouse:

(A) before the marriage; or

(B) through inheritance or gift.

(3) The economic circumstances of each spouse at the time the disposition of the property is to become effective, including the desirability of awarding the family residence or the right to dwell in the family residence for such periods as the court considers just to the spouse having custody of any children.

(4) The conduct of the parties during the marriage as related to the disposition or dissipation of their property.

(5) The earnings or earning ability of the parties as related to:

(A) a final division of property; and

(B) a final determination of the property rights of the parties.

As added by P.L.1-1997, SEC.7.

IC 31-15-7-6

Monetary judgment to spouse for expenses of postsecondary education

Sec. 6. If the court finds there is little or no marital property, the court may award either spouse a money judgment not limited to the property existing at the time of final separation. However, this award may be made only for the financial contribution of one (1) spouse toward tuition, books, and laboratory fees for the postsecondary education of the other spouse.

As added by P.L.1-1997, SEC.7. Amended by P.L.2-2007, SEC.359.

IC 31-15-7-7

Tax consequences of property division

Sec. 7. The court, in determining what is just and reasonable in dividing property under this chapter, shall consider the tax consequences of the property disposition with respect to the present and future economic circumstances of each party.

As added by P.L.1-1997, SEC.7.

IC 31-15-7-8

Security, bond, or other guarantee of division of property

Sec. 8. Upon entering an order under this chapter, the court may provide for the security, bond, or other guarantee that is satisfactory to the court to secure the division of property.

As added by P.L.1-1997, SEC.7.

IC 31-15-7-9

Repealed

(Repealed by P.L.197-1997, SEC.29.)

IC 31-15-7-9.1

Revocation or modification of property disposition orders; fraud

Sec. 9.1. (a) The orders concerning property disposition entered under this chapter (or IC 31-1-11.5-9 before its repeal) may not be revoked or modified, except in case of fraud.

(b) If fraud is alleged, the fraud must be asserted not later than six (6) years after the order is entered.

As added by P.L.2-1998, SEC.75.

IC 31-15-7-10

Enforcement

Sec. 10. Notwithstanding any other law, all orders and awards contained in a dissolution of marriage decree or legal separation decree may be enforced by:

(1) contempt;

(2) an income withholding order; or

(3) any other remedies available for the enforcement of a court order;

except as otherwise provided by this article.

As added by P.L.1-1997, SEC.7. Amended by P.L.197-1997, SEC.9; P.L.148-2006, SEC.12.

IC 31-15-8

Chapter 8. Support of Children and Other Dependents

IC 31-15-8-1

Governing law

Sec. 1. The support of children and other dependents is governed by IC 31-16.

As added by P.L.1-1997, SEC.7.

IC 31-15-9
Chapter 9. Conciliation

IC 31-15-9-1
Authorized referrals

Sec. 1. Conciliation procedures may include referrals to any of the following:

(1) The family relations division of the court, if established.
(2) Public or private marriage counselors.
(3) Family service agencies.
(4) Community mental health centers.
(5) Licensed psychologists.
(6) Physicians.
(7) Attorneys.
(8) Clergy.
(9) Mediators.

As added by P.L.1-1997, SEC.7.

IC 31-15-9-2
Costs

Sec. 2. (a) Except as provided in subsection (b), the parties shall pay the costs of conciliation procedures that the court orders.

(b) If the court determines that the parties will be unable to pay the costs without prejudicing their financial ability to provide themselves and any minor children with economic necessities, the costs shall be paid from the budget of the court.

As added by P.L.1-1997, SEC.7.

IC 31-15-9.4
Chapter 9.4. Mediation

IC 31-15-9.4-1
Factors in determination

Sec. 1. Whenever the court issues an order under this article, other than an ex parte order, the court shall determine whether the proceeding should be referred to mediation. In making this determination, the court shall consider:

(1) the ability of the parties to pay for the mediation services; and

(2) whether mediation is appropriate in helping the parties resolve their disputes.

As added by P.L.199-1997, SEC.1.

IC 31-15-9.4-2
Docketing; extension; report

Sec. 2. When a case is ordered to mediation, the case shall be placed on the court docket for final hearing. The mediation process must be completed not later than sixty (60) days after the mediation order is entered. However, the sixty (60) day period may be extended by the court upon the court's own motion, upon agreement of the parties, or upon the recommendation of the mediator, but may not be extended beyond the date set for final hearing. Upon completion of the mediation process, the mediator shall promptly file the mediation report.

As added by P.L.199-1997, SEC.1.

IC 31-15-10
Chapter 10. Costs and Attorney's Fees

IC 31-15-10-1
Costs and attorney's fees; order for direct payment to attorney

Sec. 1. (a) The court periodically may order a party to pay a reasonable amount for the cost to the other party of maintaining or defending any proceeding under this article and for attorney's fees and mediation services, including amounts for legal services provided and costs incurred before the commencement of the proceedings or after entry of judgment.

(b) The court may order the amount to be paid directly to the attorney, who may enforce the order in the attorney's name.

As added by P.L.1-1997, SEC.7. Amended by P.L.199-1997, SEC.4.

IC 31-15-10-2
Exemption for agencies

Sec. 2. Neither costs or attorney fees may be taxed against an agency, or the agency's agents, that is authorized to maintain proceedings under this article by Title IV-D of the federal Social Security Act (42 U.S.C. 651 through 669) and IC 31-25-4-17.

As added by P.L.1-1997, SEC.7. Amended by P.L.145-2006, SEC.231.

IC 31-16

ARTICLE 16. FAMILY LAW: SUPPORT OF CHILDREN AND OTHER DEPENDENTS

IC 31-16-1

Chapter 1. General Provisions

IC 31-16-1-1

Construction and application of IC 31-16-1 through IC 31-16-12

Sec. 1. This chapter and IC 31-16-2 through IC 31-16-12 shall be construed and applied to promote the purpose and policy of this chapter and IC 31-16-2 through IC 31-16-12.

As added by P.L.1-1997, SEC.8.

IC 31-16-1-2

Purposes and policies of IC 31-16-1 through IC 31-16-12

Sec. 2. The purpose and policy of this chapter and IC 31-16-2 through IC 31-16-12 are to provide for child support.

As added by P.L.1-1997, SEC.8.

IC 31-16-2
Chapter 2. Actions for Child Support

IC 31-16-2-1
Applicability of Indiana Rules of Civil Procedure
Sec. 1. Proceedings under this chapter and IC 31-16-3.5 through IC 31-16-12 must comply with the Indiana Rules of Civil Procedure.
As added by P.L.1-1997, SEC.8. Amended by P.L.1-2010, SEC.117.

IC 31-16-2-2
Cause of action established
Sec. 2. A cause of action for child support is established.
As added by P.L.1-1997, SEC.8.

IC 31-16-2-3
Caption; standing
Sec. 3. A proceeding for child support must be commenced by the filing of a petition entitled, "In Re the support of _____". The petition may be filed by any person entitled to receive child support payments.
As added by P.L.1-1997, SEC.8.

IC 31-16-2-4
Verified petition; averments
Sec. 4. A petition for child support:
(1) must be verified; and
(2) must set forth the following:
(A) The relationship of the parties.
(B) The present residence of each party.
(C) The names and addresses of:
(i) each living child less than twenty-one (21) years of age; and
(ii) each incapacitated child;
of the marriage.
(D) The relief sought.
As added by P.L.1-1997, SEC.8.

IC 31-16-2-5
Service of petition and summons
Sec. 5. Whenever a petition is filed, a copy of the petition, including a copy of a summons, shall be served upon the person alleged to be responsible for child support in the same manner as service of summons in civil actions generally.
As added by P.L.1-1997, SEC.8.

IC 31-16-2-6
Residence
Sec. 6. In an action for child support under section 2 of this chapter, one (1) of the parties must reside in the county at the time of the filing of the action.

As added by P.L.1-1997, SEC.8.

IC 31-16-2-7
Responsive pleading or counter petition

Sec. 7. A responsive pleading or a counter petition may be filed under this chapter or IC 31-16-3.5 through IC 31-16-12.

As added by P.L.1-1997, SEC.8. Amended by P.L.1-2010, SEC.118.

IC 31-16-2-8
Decree; findings; scope

Sec. 8. (a) The court shall enter a decree in an action under section 2 of this chapter when the court finds:

(1) that there is a duty to support by the person alleged to have the duty;
(2) that the duty to support has not been fulfilled; and
(3) that an order should be entered under IC 31-16-6-1.

(b) The decree may include orders as provided for in IC 31-16-3.5 through IC 31-16-12.

As added by P.L.1-1997, SEC.8. Amended by P.L.1-2010, SEC.119.

IC 31-16-3
Repealed

(Repealed by P.L.197-1997, SEC.29.)

IC 31-16-3.5

Chapter 3.5. Security to Secure Child Support

IC 31-16-3.5-1

Bonds; requirements

Sec. 1. A bond required under this article to secure the obligation of child support must:

(1) be in writing; and

(2) be secured by:

(A) at least one (1) resident freehold surety; or

(B) a commercial insurance company.

As added by P.L.171-2001, SEC.8.

IC 31-16-3.5-2

Bonds; form

Sec. 2. A bond described in section 1 of this chapter may be prepared in substantially the following form:

STATE OF INDIANA)
) SS:
COUNTY OF _____)
)
)
IN THE MATTER OF:
)
)
Name of Parent (As the Principal)
)
Name of Parent (As the Obligee)
)
)
CHILD:
)
Name of Child
)

KNOW ALL MEN BY THESE PRESENTS, that we _____, as Principal, and _____, as Surety, are held and firmly bound unto _____, as Obligee, in the penal sum of ____ Dollars ($____), for the payment of which well and truly to be made we hereby bind ourselves and our heirs, administrators, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS, an Order was duly made and entered by the above Court in the State of Indiana, County of ____, dated ____, defining custody, parenting time, and support rights regarding the named children.

NOW THEREFORE, the conditions of this obligation are such that:

1. No right of action on this bond shall be granted for the use or benefit of any individual, partnership, corporation, or other entity, other than the named Obligee.
2. It is agreed that neither this bond nor the obligation of this

bond, nor any interest in this bond, may be assigned without the prior express written consent of the Surety.

3. Payment under this bond shall be conditioned upon the Obligee's, or the representative of the Obligee's, filing a motion with the court seeking a declaration of forfeiture of the bond and the Court's finding and entry of a final judgment ordering the Principal and Surety to make such payment. A certified copy of the filing shall be provided to the Surety at its address of record. The Surety shall make payment within thirty (30) days of receiving notification of the final judgment directly to a Trustee appointed by the Court who shall administer the funds in a fiduciary capacity.
4. The Surety shall not be liable hereunder for any amount larger than the face amount of this bond.
5. This bond and the obligation hereunder shall terminate and be of no further effect if the Court order requiring it is modified in any way without the Surety's consent, the Court order expires, or this cause is removed to another jurisdiction.
6. The Surety may file a motion with the Court for discharge of this bond and its obligation hereunder for any good cause. Good cause includes, but is not limited to, misrepresentation or fraud in the initial application for this bond, nonpayment of premium, loss of collateral, or resignation of the Indemnitor. The Surety shall give notice of any such motion to the Obligee.

NOW THEREFORE, if the Principal faithfully complies with the requirements and conditions of the Court Order within the limitations and parameters set forth therein, then this Obligation shall be void, otherwise it shall remain in full force and effect.

In witness whereof, each party to this bond has caused it to be executed at the place and on the date indicated below.

Signed, sealed and dated on this ____ day of ____, 20___.

Principal:	Surety:
_____	_____
(Name and address of Principal)	(Name and address of Surety)
_____	_____
(Signature of Principal)	(Countersigned by attorney-in-fact)

(Surety seal)

Witness:

As added by P.L.171-2001, SEC.8. Amended by P.L.68-2005, SEC.30.

IC 31-16-3.5-3

Forfeiture; use of proceeds

Sec. 3. Upon forfeiture, the proceeds of the security, a bond, or other guarantee ordered to secure the obligation of child support, enforcement of a custody order, or enforcement of a parenting time order under this article may only be used to:

(1) reimburse the nonviolating party for actual costs or damages incurred in upholding the court's order;

(2) locate and return the child to the residence as set forth in the court's order, if the security, bond, or guarantee covers custody or parenting time, or both; or

(3) reimburse reasonable fees and court costs to the court appointed trustee.

As added by P.L.171-2001, SEC.8. Amended by P.L.68-2005, SEC.31.

IC 31-16-3.5-4

Forfeiture; excess proceeds

Sec. 4. The proceeds of the security, bond, or other guarantee ordered to secure the obligation of child support ordered under this article that are not applied to the expenses described in section 3 of this chapter must be applied toward:

(1) the child's postsecondary education; or

(2) the support and maintenance of the child.

As added by P.L.171-2001, SEC.8. Amended by P.L.2-2007, SEC.360.

IC 31-16-4
Repealed

(Repealed by P.L.197-1997, SEC.29.)

IC 31-16-5
Repealed

(Repealed by P.L.197-1997, SEC.29.)

IC 31-16-6

Chapter 6. Child Support Orders

IC 31-16-6-1

Child support orders; relevant factors; income withholding; account at financial institution

Sec. 1. (a) In an action for dissolution of marriage under IC 31-15-2, legal separation under IC 31-15-3, child support under IC 31-16-2, or establishment of paternity under IC 31-14, the court may order either parent or both parents to pay any amount reasonable for support of a child, without regard to marital misconduct, after considering all relevant factors, including:

(1) the financial resources of the custodial parent;

(2) the standard of living the child would have enjoyed if:

(A) the marriage had not been dissolved;

(B) the separation had not been ordered; or

(C) in the case of a paternity action, the parents had been married and remained married to each other;

(3) the physical or mental condition of the child and the child's educational needs; and

(4) the financial resources and needs of the noncustodial parent.

(b) The court shall order that child support payments ordered under this section be immediately withheld from the income of the parent obligated to pay child support as provided under IC 31-16-15-0.5.

(c) The court shall order a custodial parent or third party under IC 31-16-10-1 who receives child support to obtain an account at a financial institution unless:

(1) the custodial parent or third party files a written objection before a child support order is issued; and

(2) the court finds that good cause exists to exempt the custodial parent or third party from the account requirement.

A custodial parent or third party ordered to obtain an account shall provide the clerk of the circuit court, the state central collection unit, or other person or entity acting as assignee or trustee for remittance with an account number and any other information necessary to transfer funds to the account.

(d) In accordance with its policies, a financial institution may restrict or deny services to a person ordered to obtain an account under this section.

(e) This section may not be construed to require the clerk of the circuit court to remit child support payments by electronic funds transfer.

As added by P.L.1-1997, SEC.8. Amended by P.L.86-2002, SEC.9; P.L.207-2013, SEC.44.

IC 31-16-6-1.5

Claiming child for tax purposes; considerations; conditions

Sec. 1.5. (a) A court shall specify in a child support order which parent of a child may claim the child as a dependent for purposes of

federal and state taxes.

(b) In determining which parent may claim the child as a dependent under subsection (a), the court shall consider the following:

(1) The value of claiming the child as a dependent at the marginal tax rate of each parent.

(2) The income of each parent.

(3) The age of the child or children and the number of years that the child or children could be claimed as a dependent or dependents.

(4) Each parent's percentage of the costs of supporting the child or children.

(5) If applicable, the financial aid benefit for postsecondary education for the child or children.

(6) If applicable, the financial burden each parent assumed under the property settlement in a dissolution proceeding.

(7) Any other relevant factors.

(c) If a court designates that the noncustodial parent of a child may claim the child as a dependent for purposes of federal and state taxes, the court shall order the custodial parent of the child to take all actions necessary to release the custodial parent's claim to the exemption in the manner required under Section 152(e) of the Internal Revenue Code.

(d) If a court determines that a parent who is ordered to pay child support may claim the child as a dependent under subsection (a), the court shall include in the order that the parent may only claim the child as a dependent for federal and state tax purposes if the parent has paid at least ninety-five percent (95%) of the parent's child support for the calendar year for which the parent is ordered to claim the child as a dependent by January 31 of the following year.

As added by P.L.210-2011, SEC.4. Amended by P.L.6-2012, SEC.203.

IC 31-16-6-2

Expenses for child's education and health care; Title IV-D fees

Sec. 2. (a) The child support order or an educational support order may also include, where appropriate:

(1) amounts for the child's education in elementary and secondary schools and at postsecondary educational institutions, taking into account:

(A) the child's aptitude and ability;

(B) the child's reasonable ability to contribute to educational expenses through:

(i) work;

(ii) obtaining loans; and

(iii) obtaining other sources of financial aid reasonably available to the child and each parent; and

(C) the ability of each parent to meet these expenses;

(2) special medical, hospital, or dental expenses necessary to serve the best interests of the child; and

(3) fees mandated under Title IV-D of the federal Social Security Act (42 U.S.C. 651 through 669).

(b) If the court orders support for a child's educational expenses at a postsecondary educational institution under subsection (a), the court shall reduce other child support for that child that:

(1) is duplicated by the educational support order; and

(2) would otherwise be paid to the custodial parent.

As added by P.L.1-1997, SEC.8. Amended by P.L.2-2007, SEC.361.

IC 31-16-6-3

Setting aside parent's property

Sec. 3. As part of the child support order the court may set apart the part of the property of either parent or both parents that appears necessary and proper for the support of the child.

As added by P.L.1-1997, SEC.8.

IC 31-16-6-4

Medical support

Sec. 4. (a) A child support order must require either parent or both parents to provide medical support for the child through health insurance coverage if the health insurance coverage is available to the parent at a reasonable cost.

(b) An order for medical support under this section shall be enforced under 42 U.S.C. 666(a)(19).

As added by P.L.1-1997, SEC.8. Amended by P.L.86-2002, SEC.10; P.L.103-2007, SEC.18; P.L.80-2010, SEC.29.

IC 31-16-6-5

Security, bond, or other guarantees

Sec. 5. Upon entering an order under section 1 of this chapter, the court may provide for such security, bond, or other guarantee that is satisfactory to the court to secure the obligation to make child support payments.

As added by P.L.1-1997, SEC.8.

IC 31-16-6-6

Termination of child support; emancipation; petition for educational needs

Sec. 6. (a) The duty to support a child under this chapter, which does not include support for educational needs, ceases when the child becomes nineteen (19) years of age unless any of the following conditions occurs:

(1) The child is emancipated before becoming nineteen (19) years of age. In this case the child support, except for the educational needs outlined in section 2(a)(1) of this chapter, terminates at the time of emancipation, although an order for educational needs may continue in effect until further order of the court.

(2) The child is incapacitated. In this case the child support continues during the incapacity or until further order of the

court.

(3) The child:

(A) is at least eighteen (18) years of age;

(B) has not attended a secondary school or postsecondary educational institution for the prior four (4) months and is not enrolled in a secondary school or postsecondary educational institution; and

(C) is or is capable of supporting himself or herself through employment.

In this case the child support terminates upon the court's finding that the conditions prescribed in this subdivision exist. However, if the court finds that the conditions set forth in clauses (A) through (C) are met but that the child is only partially supporting or is capable of only partially supporting himself or herself, the court may order that support be modified instead of terminated.

(b) For purposes of determining if a child is emancipated under subsection (a)(1), if the court finds that the child:

(1) is on active duty in the United States armed services;

(2) has married; or

(3) is not under the care or control of:

(A) either parent; or

(B) an individual or agency approved by the court;

the court shall find the child emancipated and terminate the child support.

(c) If a court has established a duty to support a child in a court order issued before July 1, 2012, the:

(1) parent or guardian of the child; or

(2) child;

may file a petition for educational needs until the child becomes twenty-one (21) years of age.

(d) If a court has established a duty to support a child in a court order issued after June 30, 2012, the:

(1) parent or guardian of the child; or

(2) child;

may file a petition for educational needs until the child becomes nineteen (19) years of age.

(e) If:

(1) an order was issued after June 30, 2012, that denied support for educational needs to a child who was less than twenty-one (21) years of age at the time the petition for educational needs was filed; and

(2) support for educational needs was denied based on the fact that the child was older than eighteen (18) years of age;

notwithstanding any other law, a parent or guardian of the child or the child may file with the court a subsequent petition for educational needs. The court shall consider the petition on the merits in accordance with this section and may not consider the absence of subsection (c) from law at the time of the initial filing.

As added by P.L.1-1997, SEC.8. Amended by P.L.2-2007, SEC.362;

P.L.80-2010, SEC.30; P.L.111-2012, SEC.2; P.L.207-2013, SEC.45.

IC 31-16-6-7
Effect of child's emancipation or death of parent obligated to pay support

Sec. 7. (a) Unless otherwise agreed in writing or expressly provided in the order, provisions for child support are terminated:

(1) by the emancipation of the child; but

(2) not by the death of the parent obligated to pay the child support.

(b) If the parent obligated to pay support dies, the amount of support may be modified or revoked to the extent just and appropriate under the circumstances on petition of representatives of the parent's estate.

As added by P.L.1-1997, SEC.8.

IC 31-16-6-7.5
Funeral expenses

Sec. 7.5. If the child dies while a support order is in effect, the court may order either or both parents to pay reasonable funeral expenses.

As added by P.L.207-2013, SEC.46.

IC 31-16-6-7.8
Child support considered priority claim

Sec. 7.8. Child support that:

(1) the parent was obligated to pay; and

(2) has not been paid at the time of the parent's death;

constitutes a priority claim against the estate.

As added by P.L.207-2013, SEC.47.

IC 31-16-6-8
Repealed

(Repealed by P.L.197-1997, SEC.29.)

IC 31-16-6-9
Duty to furnish information; exception

Sec. 9. (a) The custodial parent and noncustodial parent shall furnish the following information to the clerk of the court for entry into the Indiana support enforcement tracking system (ISETS) or its successor statewide automated support enforcement system at the time of the issuance or modification of a child support order:

(1) Except as provided in subsection (b), the parent's:

(A) Social Security number;

(B) current residence and mailing address;

(C) telephone numbers;

(D) date of birth; and

(E) driver's license number.

(2) The name, telephone number, and address of the parent's employer.

(b) An individual certified as a program participant in the address confidentiality program under IC 5-26.5 is not required to provide the individual's current residence and mailing address if the individual provides an address designated by the office of the attorney general under IC 5-26.5 as the individual's current residence and mailing address.

As added by P.L.80-2010, SEC.31. Amended by P.L.128-2012, SEC.35.

IC 31-16-6-10

Notice of change of address, federal assistance, and other conditions affecting support order; exception

Sec. 10. (a) Except as provided in subsection (c), a party affected by a support order shall inform the clerk of the court and the state central collection unit established within the child support bureau by IC 31-25-3-1 of any change of address not more than fifteen (15) days after the party's address is changed.

(b) At the time of the issuance or modification of a support order, the parties affected by the order shall inform the clerk of the court and the state central collection unit established within the child support bureau by IC 31-25-3-1 of:

(1) whether any of the parties is receiving or has received assistance under the:

(A) federal Aid to Families with Dependent Children program (42 U.S.C. 601 et seq.); or

(B) federal Temporary Assistance for Needy Families (TANF) program (45 CFR 260 et seq.); and

(2) the Social Security number of any child affected by the order.

The Social Security number required under subdivision (2) shall be maintained in the Indiana support enforcement tracking system (ISETS) or its successor statewide automated support enforcement system and shall be kept confidential and may be used only to carry out the purposes of the Title IV-D program.

(c) A party who is an individual certified as a program participant in the address confidentiality program under IC 5-26.5 is not required to provide the individual's current residence and mailing address if the individual provides an address designated by the office of the attorney general under IC 5-26.5 as the individual's principal residence and mailing address.

As added by P.L.80-2010, SEC.32. Amended by P.L.128-2012, SEC.36.

IC 31-16-6.4
Chapter 6.4. Mediation

IC 31-16-6.4-1
Factors in determination

Sec. 1. Whenever the court issues an order under this article, other than an ex parte order, the court shall determine whether the proceeding should be referred to mediation. In making this determination, the court shall consider:

(1) the ability of the parties to pay for the mediation services; and

(2) whether mediation is appropriate in helping the parties resolve their disputes.

As added by P.L.199-1997, SEC.2.

IC 31-16-6.4-2
Docketing; extension; report

Sec. 2. When a case is ordered to mediation, the case shall be placed on the court docket for final hearing. The mediation process must be completed not later than sixty (60) days after the mediation order is entered. However, the sixty (60) day period may be extended by the court upon the court's own motion, upon agreement of the parties, or upon the recommendation of the mediator, but may not be extended beyond the date set for final hearing. Upon completion of the mediation process, the mediator shall promptly file the mediation report.

As added by P.L.199-1997, SEC.2.

IC 31-16-7
Repealed

(Repealed by P.L.197-1997, SEC.29.)

IC 31-16-8

Chapter 8. Modification of Child Support or Maintenance Orders

IC 31-16-8-1

Modification or revocation of child support order or maintenance order

Sec. 1. (a) Provisions of an order with respect to child support or an order for maintenance (ordered under IC 31-16-7-1 or IC 31-1-11.5-9(c) before their repeal) may be modified or revoked.

(b) Except as provided in section 2 of this chapter, modification may be made only:

(1) upon a showing of changed circumstances so substantial and continuing as to make the terms unreasonable; or

(2) upon a showing that:

(A) a party has been ordered to pay an amount in child support that differs by more than twenty percent (20%) from the amount that would be ordered by applying the child support guidelines; and

(B) the order requested to be modified or revoked was issued at least twelve (12) months before the petition requesting modification was filed.

(c) Modification under this section is subject to IC 31-25-4-17(a)(6).

As added by P.L.1-1997, SEC.8. Amended by P.L.103-2007, SEC.19.

IC 31-16-8-2

Medical support

Sec. 2. The court shall modify a support order to require either parent or both parents to provide medical support for the child through the health insurance coverage if a Title IV-D agency, authorized under the federal Social Security Act (42 U.S.C. 651 through 669) and IC 31-25-4-17, petitions for the modification and the coverage is available to the parent at a reasonable cost.

As added by P.L.1-1997, SEC.8. Amended by P.L.145-2006, SEC.232; P.L.80-2010, SEC.33.

IC 31-16-8-3

Security, bond, or guarantee

Sec. 3. The court may provide in a modification of a support order for the security, bond, or other guarantee that is satisfactory to the court to secure the obligation to make support payments.

As added by P.L.171-2001, SEC.9.

IC 31-16-9
Chapter 9. Method of Payment of Support

IC 31-16-9-0.3
Wage deductions for child support order; employer collection of certain fees

Sec. 0.3. An employer who makes a deduction from an employee's wages, in accordance with an assignment of wages for the payment of child support ordered by the court before September 1, 1985, under IC 31-1-11.5-13 (before its repeal, now codified in this chapter and at IC 31-16-12), may collect a fee of two dollars ($2) each time the employer makes a deduction. The fee may be deducted by the employer from the employee's wages each time the employer makes the deduction for support.

As added by P.L.220-2011, SEC.500.

IC 31-16-9-1
Clerk or state central collection unit as trustee for remittance

Sec. 1. (a) This subsection applies before January 1, 2007. Upon entering an order for support in:

(1) a dissolution of marriage decree under IC 31-15-2;
(2) a legal separation decree under IC 31-15-3; or
(3) a child support decree under IC 31-16-2;

the court shall require that support payments be made through the clerk of the circuit court as trustee for remittance to the person entitled to receive payments, unless the court has reasonable grounds for providing or approving another method of payment.

(b) Beginning January 1, 2007, except as provided in subsection (c), upon entering an order for support in:

(1) a dissolution of marriage decree under IC 31-15-2;
(2) a legal separation decree under IC 31-15-3; or
(3) a child support decree under IC 31-14-11 or IC 31-16-2;

the court shall require that support payments be made through the clerk of the circuit court or the state central collection unit established by IC 31-33-1.5-8, as trustee for remittance to the person entitled to receive payments, unless the court has reasonable grounds for providing or approving another method of payment.

(c) Beginning January 1, 2007, child support payments that are paid in cash must be paid to a clerk of the circuit court, and all noncash payments must be paid to the state central collection unit established within the child support bureau by IC 31-25-3-1.

As added by P.L.1-1997, SEC.8. Amended by P.L.197-1997, SEC.10; P.L.148-2006, SEC.13; P.L.3-2008, SEC.231; P.L.207-2013, SEC.48.

IC 31-16-9-2
Records; accounting

Sec. 2. (a) The clerk of the circuit court shall maintain records listing the following:

(1) The amount of the payments.

(2) The date when payments are required to be made.
(3) The names and addresses of the parties affected by the order.
(4) The information required to be submitted to the clerk under sections 3 and 4 of this chapter.

(b) If the clerk elects under IC 5-13-6-4(a) not to follow the accounting and depository procedures required by IC 5-13-6, the clerk shall comply with IC 5-13-6-4(b).

As added by P.L.1-1997, SEC.8.

IC 31-16-9-3

Notice of change of address, federal assistance, and other conditions affecting support order

Sec. 3. (a) A party affected by a support order shall inform the clerk and the state central collection unit established within the child support bureau by IC 31-25-3-1 of any change of address not more than fifteen (15) days after the party's address is changed.

(b) At the time of the issuance or modification of a support order, the parties affected by the order shall inform the clerk of the court and the state central collection unit established within the child support bureau by IC 31-25-3-1 of:

(1) whether any of the parties is receiving or has received assistance under the:
(A) federal Aid to Families with Dependent Children program (42 U.S.C. 601 et seq.); or
(B) federal Temporary Assistance for Needy Families (TANF) program (45 CFR 260 et seq.); and
(2) the Social Security number of any child affected by the order.

The Social Security number required under subdivision (2) shall be kept confidential and used only to carry out the purposes of the Title IV-D program.

As added by P.L.1-1997, SEC.8. Amended by P.L.213-1999, SEC.11; P.L.148-2006, SEC.14; P.L.1-2007, SEC.192; P.L.3-2008, SEC.232; P.L.1-2009, SEC.158.

IC 31-16-9-4

Duty to furnish Social Security number and employer information

Sec. 4. The custodial parent and the noncustodial parent shall furnish the following information to the clerk of the court and the state central collection unit at the time of the issuance or modification of a child support order:

(1) The parent's Social Security number.
(2) The name and address of the parent's employer.

As added by P.L.1-1997, SEC.8. Amended by P.L.138-2001, SEC.11; P.L.148-2006, SEC.15.

IC 31-16-9-5

Duty of noncustodial parent to furnish employer and health insurance information and Social Security number

Sec. 5. In all cases administered by the Title IV-D agency, the

court shall order the noncustodial parent to inform the Title IV-D agency and the court of the following:

(1) The name and address of the noncustodial parent's current employer.

(2) Access to health insurance.

(3) Specific health insurance policy information.

(4) The noncustodial parent's Social Security number.

As added by P.L.1-1997, SEC.8.

IC 31-16-9-6

Accounting of future expenditures

Sec. 6. At the time of entering an order for support or at any subsequent time, the court may order, upon a proper showing of necessity, the spouse or other person receiving support payments to provide an accounting to the court of future expenditures upon such terms and conditions as the court decrees.

As added by P.L.1-1997, SEC.8.

IC 31-16-10

Chapter 10. Child Support Payments to Third Parties

IC 31-16-10-1

Payments of child support to third persons

Sec. 1. Upon entering an order under IC 31-16-6-1 or at any subsequent time, the court may order, upon the proper showing that a person other than the person awarded custody under IC 31-17-2-8 (or IC 31-1-11.5-21 before its repeal) should receive payments, that the clerk of the circuit court or the person obligated to make the payments transmit those payments to any third person agreed upon by the parties and approved by the court or appointed by the court, including the following:

(1) A trustee.

(2) The guardian of the estate of the child.

(3) Any third person.

(4) The department or any appropriate social service agency.

(5) The state agency administering Title IV-D of the federal Social Security Act (42 U.S.C. 651 through 669).

(6) The township trustee.

As added by P.L.1-1997, SEC.8. Amended by P.L.139-2000, SEC.3; P.L.128-2012, SEC.37.

IC 31-16-10-2

Forwarding of payments to Title IV-D agency

Sec. 2. (a) If the clerk of the court or the state central collection unit is notified by the Title IV-D agency or the agency's designee that:

(1) the child who is the beneficiary of a support order is receiving assistance under the:

(A) federal Temporary Assistance for Needy Families (TANF) program (45 CFR 260 et seq.); or

(B) Title IV-E assistance program (42 U.S.C. 670 et seq.);

(2) an assignment of support rights in favor of the state is in effect against the person obligated to make child support payments; and

(3) the Title IV-D agency has sent notice to the child support obligor and obligee;

the clerk of the court or the state central collection unit shall forward the child support payments directly to the Title IV-D agency without further order of the court.

(b) The Title IV-D agency shall disburse the payments in accordance with federal regulations governing the Title IV-D program.

As added by P.L.1-1997, SEC.8. Amended by P.L.148-2006, SEC.16; P.L.1-2007, SEC.193; P.L.1-2009, SEC.159; P.L.128-2012, SEC.38.

IC 31-16-10-3

Use of child support exclusively for child's benefit; Title IV-D disbursements and fees

Sec. 3. (a) Any person or agency named in section 1 or 2 of this chapter is entitled to receive the child support payments from the clerk of the circuit court or the person obligated to make the payments. The payments shall be used solely for the benefit of the child entitled to receive the payments.

(b) If the payment has been assigned to the state agency administering Title IV-D of the federal Social Security Act (42 U.S.C. 651 through 669), the payments shall be disbursed in accordance with federal regulations governing the Title IV-D program. The court may allow the agency to receive a reasonable fee for services provided under this chapter. The agency shall make financial reports in connection with such services at the time and in the manner that is prescribed by the court or required by law.

As added by P.L.1-1997, SEC.8.

IC 31-16-11

Chapter 11. Costs and Attorney's Fees

IC 31-16-11-1

Costs of proceeding and attorney's fees

Sec. 1. (a) The court periodically may order a party to pay a reasonable amount for:

(1) the cost to the other party of maintaining or defending any proceeding under this chapter, IC 31-16-2 through IC 31-16-10, or IC 31-16-12;

(2) attorney's fees; and

(3) mediation services;

including amounts for legal services provided and costs incurred before the commencement of the proceedings or after entry of judgment.

(b) The court may order the amount to be paid directly to the attorney, who may enforce the order in the attorney's name.

As added by P.L.1-1997, SEC.8. Amended by P.L.199-1997, SEC.5.

IC 31-16-11-2

Exemption for Title IV-D agencies

Sec. 2. Neither costs or attorney's fees may be taxed against an agency, or the agency's agents, that is authorized to maintain proceedings under this chapter, IC 31-16-2 through IC 31-16-10, or IC 31-16-12 by Title IV-D of the federal Social Security Act (42 U.S.C. 651 through 669) and IC 31-25-4-17.

As added by P.L.1-1997, SEC.8. Amended by P.L.145-2006, SEC.233.

IC 31-16-12
Chapter 12. Enforcement of Child Support Orders

IC 31-16-12-0.3
Repealed
(Repealed by P.L.39-2011, SEC.4.)

IC 31-16-12-1
Enforcement remedies
Sec. 1. Notwithstanding any other law, all orders and awards contained in a child support decree or an order directing a person to pay a child support arrearage may be enforced by:
(1) contempt, including the provisions under section 6 of this chapter;
(2) an income withholding order; or
(3) any other remedies available for the enforcement of a court order;
except as otherwise provided by IC 31-16-2 through IC 31-16-11 or this chapter.
As added by P.L.1-1997, SEC.8. Amended by P.L.197-1997, SEC.11; P.L.123-2001, SEC.2; P.L.39-2002, SEC.1; P.L.148-2006, SEC.17.

IC 31-16-12-2
Delinquent child support payments; interest charges
Sec. 2. The court may, upon a request by the person or agency entitled to receive child support payments, order interest charges of not more than one and one-half percent (1 1/2%) per month to be paid on any delinquent child support payment. The person or agency may apply for interest if support payments are not made in accordance with the support order. Accrued interest charges may be collected in the same manner as support payments under IC 31-16-9.
As added by P.L.1-1997, SEC.8.

IC 31-16-12-3
Arrearages; court orders
Sec. 3. (a) The obligation of a person to pay child support arrearages does not terminate when the person's duty to support a child ceases under IC 31-16-6-6 (or IC 31-1-11.5-12(e) before its repeal). The statutes applicable to the collection of child support obligations are applicable to the collection of child support arrearages described in this section.
(b) The court, upon request of a person or an agency entitled to receive child support payments, may issue an order that contains any of the following:
(1) A determination of the amount of child support arrearage due to a person or an agency entitled to receive child support payments.
(2) An order directing a person to pay the child support arrearage.
(3) The schedule and other terms on which a person is to pay a

child support arrearage.

(4) Any other provision that the court determines to be appropriate.

An order issued under this subsection is enforceable to the same extent as an order or award in a child support decree.

As added by P.L.1-1997, SEC.8. Amended by P.L.39-2002, SEC.2.

IC 31-16-12-4

Enforcement of judgment; income withholding order

Sec. 4. Upon application to the court for enforcement of an order for support, the court may:

(1) enforce a judgment created under IC 31-16-16-2 (or IC 31-2-11-8 before its repeal) against the person obligated to pay support;

(2) issue an income withholding order as provided in IC 31-16-15-0.5; or

(3) implement an income withholding order as provided in IC 31-16-15-2.

As added by P.L.1-1997, SEC.8. Amended by P.L.103-2007, SEC.20.

IC 31-16-12-5

Additional remedies

Sec. 5. The enforcement remedies provided under this chapter are in addition to other remedies available for collecting delinquent support.

As added by P.L.1-1997, SEC.8.

IC 31-16-12-6

Contempt

Sec. 6. (a) If the court finds that a party is delinquent as a result of an intentional violation of an order for support, the court may find the party in contempt of court. If an action or request to enforce payment of a child support arrearage is commenced not later than ten (10) years after:

(1) the child becomes eighteen (18) years of age; or

(2) the emancipation of the child;

whichever occurs first, the court may, upon a request by the person or agency entitled to receive child support arrearages, find a party in contempt of court.

(b) The court may order a party who is found in contempt of court under this section to:

(1) perform community restitution or service without compensation in a manner specified by the court; or

(2) seek employment.

(c) The court may order a party who is alleged to be in contempt of court under this section to show cause as to why the party should not be held in contempt for violating an order for support. The order to show cause must set forth:

(1) the contempt allegations;

(2) the failure to pay child support allegations;

(3) when the court issued the order for support;
(4) the party's history of child support payments;
(5) the specific:
(A) date and time when; and
(B) place where;
the party is required to show cause in the court; and
(6) the party's arrearage.

As added by P.L.1-1997, SEC.8. Amended by P.L.32-2000, SEC.18; P.L.123-2001, SEC.3; P.L.86-2002, SEC.11; P.L.131-2009, SEC.11.

IC 31-16-12-6.5
Failure to respond to order to show cause; escrow

Sec. 6.5. (a) If a party fails to respond to an order to show cause issued under section 6(c) of this chapter by the date and time specified in the order to show cause, the court may issue a bench warrant for the party to be arrested and brought to the court to respond to the order to show cause.

(b) The court must determine an escrow that a party ordered to show cause under section 6(c) of this chapter is required to deposit with the clerk of the circuit court before the hearing to show cause. If the child support arrearage amount is less than five hundred dollars ($500), the court shall set the required escrow at the amount of the arrearage. If the arrearage is more than five hundred dollars ($500), the court shall set the required escrow at not less than five hundred dollars ($500) and not more than one hundred percent (100%) of the arrearage.

(c) All escrow received by a clerk of the circuit court under this section shall be deposited in a single account. The clerk shall:

(1) keep an accounting of all money deposited in the escrow account;
(2) issue a receipt to any person who pays money to the clerk under this section; and
(3) transfer money out of the escrow account only after receiving an order to transfer money issued by the court that issued the bench warrant.

(d) If a party is arrested under subsection (a), the party shall remain in custody until the hearing to show cause unless the party posts the escrow amount required in the bench warrant.

(e) If a party is arrested outside the business hours of the clerk of the circuit court, the party may post the escrow amount stated in the bench warrant with the arresting officer.

(f) The arresting officer or clerk receiving an escrow amount shall give the party a receipt for the escrow on a form substantially as follows:

"Date:_____

Escrow received from_____ (referred to in this receipt as respondent) to assure the performance of the respondent's child support arrearage. The respondent shall appear for a hearing to show cause at _____(time) on _____(date) at the following address:

_____

_____

(Address to be furnished by respondent for receipt of notice.)

The hearing is for the respondent to answer an order to show cause. If the respondent is found to be in contempt, further proceedings related to the respondent's contempt may occur.

If the respondent fails to appear at the time and date listed above, fails to submit to the jurisdiction of the court, or fails to abide by the court's orders, the Court may direct the Clerk of the Circuit Court to distribute the escrow deposited with the Clerk of the Circuit Court under state and federal child support distribution laws.

If the respondent appears at the time and location indicated above and the Court determines the respondent owes an arrearage under the support order that is the basis of the order to show cause or owes any costs to the Court, the Court may direct the Clerk of the Circuit Court to distribute the escrow deposited with the Clerk of the Circuit Court under state and federal child support distribution laws.

By depositing the escrow amount and accepting this receipt, the recipient of this receipt waives a claim to the money following a Court order for distribution of child support.

Printed name and signature of person receiving escrow deposit: _____

Agency or department of person receiving escrow deposit: _____.".

(g) A law enforcement officer who receives escrow money under this section shall deposit the money with the clerk of the circuit court that issued the bench warrant within two (2) business days after receiving the escrow money.

(h) If a party is arrested under subsection (a) and cannot post the escrow amount required in the bench warrant, the party is entitled to a hearing within forty-eight (48) hours after the party's arrest, excluding weekends and holidays, if the court is able to hold the hearing within that period. If the court cannot hold a hearing within forty-eight (48) hours, the court shall review the escrow amount ordered in the bench warrant, may modify the escrow amount in the bench warrant to ensure that the party appears at future hearings, and shall set a date for a hearing. At the hearing, the party shall explain to the court why the party cannot post the required escrow deposit required by the bench warrant. The party shall also respond to the court's order to show cause.

(i) If a party fails to appear at a hearing to respond to an order to show cause issued under this section after the party deposited the escrow amount set in the bench warrant, the court shall order the clerk of the circuit court to distribute the escrow under state and federal child support distribution laws. The court may also issue an additional bench warrant under subsection (a) for the party to respond to additional contempt charges.

(j) If a party posts the escrow amount set in a bench warrant, at a hearing to respond to an order to show cause under this section, the court shall determine how the escrow amount deposited is to be

distributed under state and federal child distribution laws. If the escrow amount deposited exceeds the arrearage, the party is entitled to a refund.

(k) The court may set aside a finding of contempt under this section if the court finds, based on the hearing held under this section, that the party is in compliance with the court's orders.

(l) If a court finds a person to be in contempt of court under this section, the court may punish the person for contempt of court under IC 34-47.

As added by P.L.131-2009, SEC.12.

IC 31-16-12-7

Suspension of delinquent person's driving privileges

Sec. 7. If a court finds that a person is delinquent (as defined in IC 31-25-4-2) as a result of an intentional violation of an order for support, the court shall issue an order to the bureau of motor vehicles:

(1) stating that the person is delinquent; and

(2) ordering the following:

(A) If the person who is the subject of the order holds a driving license or permit on the date of issuance of the order, that the driving privileges of the person be suspended until further order of the court.

(B) If the person who is the subject of the order does not hold a driving license or permit on the date of issuance of the order, that the bureau may not issue a driving license or permit to the person until the bureau receives a further order of the court.

As added by P.L.1-1997, SEC.8. Amended by P.L.145-2006, SEC.234.

IC 31-16-12-8

Suspension or denial of delinquent person's professional license

Sec. 8. If a court finds that a person who is an applicant (as defined in IC 25-1-1.2-1), a practitioner (as defined in IC 25-1-1.2-6), an attorney, or a licensed teacher is delinquent (as defined in IC 31-25-4-2) as a result of an intentional violation of an order for support, the court shall issue an order to the board regulating the practice of the person's profession or occupation:

(1) requiring that the person's or practitioner's license be suspended until further order of the court; or

(2) ordering the board not to issue a license to the person who is the subject of the order if the person does not currently hold a license.

As added by P.L.1-1997, SEC.8. Amended by P.L.145-2006, SEC.235.

IC 31-16-12-9

Suspension of delinquent person's horse racing commission or gaming commission license

Sec. 9. If a court finds that a person who holds a license issued

under IC 4-31-6, IC 4-33, or IC 4-35 is delinquent (as defined in IC 31-25-4-2) as a result of an intentional violation of an order for child support, the court shall issue an order to:

(1) the Indiana horse racing commission if the person holds a license issued under IC 4-31-6; or

(2) the Indiana gaming commission if the person holds a license issued under IC 4-33 or IC 4-35;

requiring that the person's license be suspended until further order of the court.

As added by P.L.1-1997, SEC.8. Amended by P.L.145-2006, SEC.236; P.L.80-2010, SEC.34.

IC 31-16-12-10

Suspension, denial, or nonrenewal of delinquent person's insurance, recovery, or bail agent's license

Sec. 10. If a court finds that a person who holds a license or who is an applicant for a license issued under IC 27-1-15.6, IC 27-1-15.8, or IC 27-10-3 is delinquent (as defined in IC 31-25-4-2) as a result of an intentional violation of an order for child support, the court shall issue an order to the commissioner of the department of insurance:

(1) requiring that the person's license be suspended until further order of the court;

(2) ordering the commissioner not to issue a license to the person who is the subject of the order if the person does not currently hold a license; or

(3) ordering the commissioner not to renew the license of a person who is the subject of the order.

As added by P.L.1-1997, SEC.8. Amended by P.L.132-2001, SEC.23; P.L.145-2006, SEC.237.

IC 31-16-12-10.5

Title IV-D agency required to provide information

Sec. 10.5. The Title IV-D agency shall provide the full name, date of birth, verified address, and Social Security number or driver's license number of the person who is the subject of an order under:

(1) section 7 of this chapter to the bureau of motor vehicles;

(2) section 8 of this chapter to the board regulating the person's profession or occupation;

(3) section 9 of this chapter to the Indiana horse racing commission or the Indiana gaming commission; and

(4) section 10 of this chapter to the commissioner of the department of insurance.

As added by P.L.207-2013, SEC.49.

IC 31-16-12-11

Payment of arrearage; stay of order to licensing authority

Sec. 11. Notwithstanding section 7, 8, 9, or 10 of this chapter, the court may stay the issuance of an order under section 7, 8, 9, or 10 of this chapter (or IC 31-1-11.5-13(j), IC 31-1-11.5-13(k), IC 31-1-11.5-13(l), or IC 31-1-11.5-13(m) before the repeal of

IC 31-1-11.5-13) if:

(1) the person pays the child support arrearage in full; or

(2) an income withholding order under IC 31-16-15 (or IC 31-2-10 before its repeal) is implemented and a payment plan to pay the arrearage is established.

As added by P.L.1-1997, SEC.8. Amended by P.L.103-2007, SEC.21.

IC 31-16-12-12

Registration of child support order

Sec. 12. (a) This section applies if:

(1) the parent who is entitled to receive child support; and

(2) the parent who is ordered to pay child support;

are both present in Indiana.

(b) The parent who is entitled to receive child support may register a child support order issued by another Indiana court or foreign court for the sole purpose of enforcement in accordance with IC 31-18-6-1 through IC 31-18-6-8 of the Uniform Interstate Family Support Act.

As added by P.L.1-1997, SEC.8.

IC 31-16-12-13

Suspension, denial, or nonrenewal of delinquent person's employee's permit

Sec. 13. If a court finds that a person who holds or has applied for an employee's permit issued under IC 7.1-3-18-9(a)(3) is delinquent (as defined in IC 31-25-4-2) as a result of an intentional violation of an order for child support, the court shall issue an order to the alcohol and tobacco commission that:

(1) requires the person's employee's permit be suspended until further order of the court;

(2) orders the chairman of the alcohol and tobacco commission not to issue an employee's permit to the person who is the subject of the order if the person does not currently hold an employee's permit; or

(3) orders the chairman of the alcohol and tobacco commission not to renew the employee's permit of the person who is the subject of the order.

As added by P.L.80-2010, SEC.35.

IC 31-16-12-14

Due process met for notice and service of process; service in contempt proceedings

Sec. 14. (a) Except as otherwise provided in subsection (b), in any subsequent child support enforcement action between the parties, upon sufficient showing that diligent effort has been made to ascertain the location of the party by a prosecuting attorney, private attorney, or private entity operating under an agreement or contract described in IC 31-25-4-13.1, the court or administrative agency with jurisdiction shall deem state due process requirements for notice and service of process to be met with respect to the party required to provide notice, upon mailing of written notice to the other party at the

most recent residential or employer address that is filed with the clerk or state central collection unit.

(b) IC 34-47-4 applies to service of an order directing an obligor to appear in a contempt proceeding.

As added by P.L.80-2010, SEC.36.

IC 31-16-12.5

Chapter 12.5. Seizure of State Income Tax Refunds for Delinquent Child Support

IC 31-16-12.5-1

Exception

Sec. 1. This chapter does not apply to a support order entered in a Title IV-D case.

As added by P.L.27-2004, SEC.4.

IC 31-16-12.5-2

Petition; procedure; intervention

Sec. 2. (a) A custodial parent may file a petition for a setoff of child support from a state income tax refund payable to a child support obligor in:

(1) the court that entered the original child support order; or

(2) a court of competent jurisdiction located in the county of residence of the custodial parent.

(b) The petition must be verified and must include all of the following:

(1) The full name of:

(A) the obligor;

(B) the custodial parent; and

(C) each child to whom the obligor owes child support.

(2) An averment that:

(A) the obligor's aggregate child support arrearage on the date the petition is filed is at least one thousand five hundred dollars ($1,500); and

(B) the obligor has intentionally violated the terms of the most recent child support order.

(3) An indication of whether the custodial parent:

(A) has received or is receiving assistance under the Title IV-A program; or

(B) has assigned child support payments under IC 12-14-7-1;

during the period for which child support is owed by the obligor.

(c) The court shall notify the child support bureau of the department of the pendency of an action under this chapter if the petition:

(1) indicates under subsection (b)(3)(A) that the custodial parent has received or is receiving assistance; or

(2) indicates under subsection (b)(3)(B) that an assignment has occurred.

(d) The state has a right to intervene as a party in a hearing under this chapter if the custodial parent has received or is receiving assistance as described in subsection (b)(3)(A) or if an assignment as described in subsection (b)(3)(B) has occurred.

As added by P.L.27-2004, SEC.4. Amended by P.L.145-2006, SEC.238.

IC 31-16-12.5-3
Prohibition

Sec. 3. A custodial parent may not bring an action under this chapter with respect to an obligor's state income tax refund for a calendar year if the child support bureau has initiated an action under IC 6-8.1-9.5 to set off the obligor's tax refund for that calendar year.
As added by P.L.27-2004, SEC.4.

IC 31-16-12.5-4
Determination of refund eligibility and filing status

Sec. 4. (a) A court that receives a petition under section 2 of this chapter shall send an order requiring the department of state revenue to determine the obligor's eligibility for a state income tax refund, whether the obligor filed a joint state income tax return, and if the obligor filed a joint state income tax return, the name and address of the individual with whom the obligor filed the joint state income tax return, if the court preliminarily determines that probable cause exists to believe that the obligor named in the petition:

(1) was at least one thousand five hundred dollars ($1,500) in arrears on child support payments at the time the custodial parent filed the petition under section 2 of this chapter; and

(2) has intentionally violated the terms of the most recent support order.

(b) The department of state revenue, upon receiving an order under subsection (a), shall notify the court whether the obligor named in the order:

(1) is eligible for a state income tax refund; and

(2) has filed a joint state income tax return, and if the obligor has filed a joint state income tax return, the name and address of the individual with whom the obligor filed the joint state income tax return.

As added by P.L.27-2004, SEC.4. Amended by P.L.2-2005, SEC.75.

IC 31-16-12.5-5
Hearing; notice

Sec. 5. (a) If the court receives notification under section 4(b) of this chapter that the obligor is eligible for a state income tax refund, the court shall set the matter for a hearing at least thirty (30) days after the date that the court receives notification under section 4(b) of this chapter.

(b) If the court sets the matter for a hearing under subsection (a), the court must send notice of the hearing by certified mail, return receipt requested, to the most recent address of the obligor. The notice must include the date of the hearing and a copy of the petition filed under section 2 of this chapter.

(c) If the court receives notification under section 4(b) of this chapter that the obligor filed a joint state income tax return, the court shall send a notice to the individual with whom the obligor filed a joint state income tax return by certified mail, return receipt requested, and inform the individual:

(1) of the hearing date;
(2) that the court may order the individual's and obligor's joint state income tax refund to be intercepted for the obligor's past due child support payments; and
(3) that the individual may petition the court or provide testimony at the hearing that the individual believes that part of the individual's and obligor's joint state income tax refund should not be intercepted for the obligor's child support and should be paid to the individual.

As added by P.L.27-2004, SEC.4.

IC 31-16-12.5-6
Final order; deadline

Sec. 6. (a) The court shall issue a final order for a state income tax refund setoff following a hearing under this chapter if the court determines by clear and convincing evidence that the obligor named in the petition:
(1) is at least one thousand five hundred dollars ($1,500) in arrears on child support payments; and
(2) has intentionally violated the terms of the most recent child support order applying to the obligor.

(b) The final order must include the amount of child support arrearage that the department of state revenue shall withhold from the obligor's state income tax refund and the obligor's Social Security number.

(c) In order for the setoff to take effect with respect to a state income tax refund, the final order of the court must be received by the department of state revenue before November 1 of the taxable year for which the tax refund is payable.

As added by P.L.27-2004, SEC.4.

IC 31-16-12.5-7
Distribution of refund

Sec. 7. (a) The department of state revenue shall submit the refund amount set forth in the final order to the clerk of the circuit court for distribution.

(b) If the custodial parent:
(1) has received or is receiving assistance under the Title IV-A program; or
(2) has assigned child support payments under IC 12-14-7-1;
during the period of time for which child support is owed by the obligor, the court shall determine whether a portion of the refund must be distributed to the state under subsection (c).

(c) If the court determines that an amount is owed to the state under subsection (b), the court shall order the clerk of the circuit court to distribute the refund:
(1) to the state in an amount determined by the court; and
(2) to the custodial parent in any amount remaining after distribution under subdivision (1).

As added by P.L.27-2004, SEC.4.

IC 31-16-12.5-8
Interest charges

Sec. 8. A final order issued under section 6 of this chapter may include interest charges in an amount determined under IC 31-16-12-2.

As added by P.L.27-2004, SEC.4. Amended by P.L.207-2013, SEC.50.

IC 31-16-12.5-9
Fee

Sec. 9. A custodial parent may not be charged a fee to seek a setoff of a state income tax refund.

As added by P.L.103-2007, SEC.22.

IC 31-16-13

Chapter 13. Registration of Child Support Orders for Enforcement Purposes

IC 31-16-13-1

Registration of child support order

Sec. 1. If:

(1) the parent who is entitled to receive child support; and

(2) the parent who is ordered to pay child support;

are both present in Indiana, the parent who is entitled to receive child support may register a child support order issued by another Indiana court or foreign court for the sole purpose of enforcement in accordance with IC 31-18-6-1 through IC 31-18-6-8 of the Uniform Interstate Family Support Act.

As added by P.L.1-1997, SEC.8.

IC 31-16-14

Chapter 14. Actions for Support of Dependents by Dependent Spouse

IC 31-16-14-1

Grounds for bringing action

Sec. 1. (a) A dependent spouse may bring an action in a circuit or superior court to obtain support from the other spouse for the benefit of the dependent spouse and the dependent children in the custody of the dependent spouse if:

(1) the other spouse has deserted the dependent spouse or dependent children without cause and without sufficient support;

(2) the other spouse has:

(A) been convicted of a felony;

(B) been imprisoned; and

(C) left the dependent spouse or dependent children without sufficient support;

(3) the other spouse:

(A) becomes incapacitated; or

(B) neglects to provide support for the dependent spouse or dependent children;

because the other spouse is a habitual drunkard;

(4) the other spouse:

(A) joins a sect or denomination that requires a renunciation of the marriage or that forbids the spouses to cohabit as husband and wife; and

(B) renounces the marriage or refuses to live with the dependent spouse in a marital relationship; or

(5) the other spouse has been adjudged insane.

(b) A dependent spouse may join other persons as codefendants in an action brought under subsection (a) if the other persons:

(1) are indebted to either spouse; or

(2) have rights, credits, or choses in action that belong to either spouse and that are in the possession or control of the other persons.

As added by P.L.1-1997, SEC.8.

IC 31-16-14-2

Commencement of action; contents of complaint

Sec. 2. (a) A dependent spouse may bring an action under section 1 of this chapter by filing a complaint against the other spouse and against other persons who may be joined as codefendants in the action under section 1(b) of this chapter. The complaint must contain the following:

(1) An allegation of the marriage of the dependent spouse and the other spouse.

(2) The name and age of each dependent child living with or in the custody of the dependent spouse.

(3) A statement that the dependent spouse may bring the action

for a reason described in section 1(a) of this chapter.

(4) The most specific possible description of the real and personal property of the other spouse that is in Indiana.

(5) An allegation of the probable value of the real and personal property of the other spouse that is in Indiana.

(6) The circumstances and mode of life of the dependent spouse and other spouse.

(7) The amount necessary to support the dependent spouse and dependent children.

(b) If other persons are joined as codefendants in the action under section 1(b) of this chapter, the complaint described in subsection (a) must also contain the following:

(1) An allegation that the other persons:

(A) are indebted to either spouse; or

(B) have rights, credits, or choses in action that belong to either spouse and that are in the possession or control of the other persons.

(2) An allegation of the amount of indebtedness under subdivision (1)(A).

(3) An allegation of the value of the rights, credits, and choses in action described in subdivision (1)(B).

As added by P.L.1-1997, SEC.8.

IC 31-16-14-3

Process

Sec. 3. Process in actions brought under this chapter is the same as in other civil actions.

As added by P.L.1-1997, SEC.8.

IC 31-16-14-4

Hearing; determination; order to pay money; judicial sale or lease; receivership

Sec. 4. The court shall hold a hearing on the complaint and make a determination. If the court finds that the allegations in the complaint are true, the court may do any of the following:

(1) Order the defendant spouse to pay an amount that is just, equitable, and in the best interests of the dependent spouse and dependent children.

(2) Order the defendant spouse's real or personal property, or both, to be sold to the highest bidder on terms and upon notice as directed by the court.

(3) Order:

(A) the defendant spouse's real property or a part of the defendant spouse's real property to be leased; and

(B) the proceeds of the lease to be applied to the support of the dependent spouse and dependent children.

(4) Appoint a receiver of the defendant spouse's estate, require the receiver to take an oath and obtain a bond, and order the receiver to:

(A) reduce the estate to possession;

(B) collect the defendant spouse's rights, credits, and choses in action;
(C) manage, sell, mortgage, or lease the defendant spouse's real property; and
(D) sell the defendant spouse's personal property.
(5) Order other parties who are joined in the action under section 1(b) of this chapter to:
(A) pay indebtedness owed to the defendant spouse; or
(B) relinquish possession or control of the defendant spouse's rights, credits, and choses in action or other property;
to provide support for the dependent spouse and dependent children.

As added by P.L.1-1997, SEC.8.

IC 31-16-14-5
Dependent spouse's collection of other spouse's debts; lease or mortgage of other spouse's real property; disposition of proceeds

Sec. 5. If the court orders support to be paid under this chapter, the court may, without appointing a receiver, authorize the dependent spouse to:
(1) collect debts owed to the other spouse; and
(2) lease or mortgage any part of the other spouse's real property and apply the proceeds of the mortgage or lease to the support of the dependent spouse and dependent children.

As added by P.L.1-1997, SEC.8.

IC 31-16-14-6
Action to modify order made under this chapter

Sec. 6. An action to modify an order made under this chapter may be initiated by filing a complaint and providing notice in accordance with sections 2 and 3 of this chapter.

As added by P.L.1-1997, SEC.8.

IC 31-16-14-7
Sales of real property

Sec. 7. If real property is sold under this chapter:
(1) the sale must be made by a receiver or commissioner appointed by the court for that purpose;
(2) the sale must be of the entire fee;
(3) the court may confirm the sale;
(4) the court may order deeds;
(5) the court may require the purchaser to:
(A) obtain a mortgage; or
(B) provide security; and
(6) the purchaser's title may not be questioned collaterally if:
(A) the defendant spouse had personal service of process; or
(B) the defendant spouse:
(i) left Indiana or could not be found; and
(ii) received service of process by publication.

As added by P.L.1-1997, SEC.8.

IC 31-16-15

Chapter 15. Child Support Income Withholding Orders

IC 31-16-15-0.3

Application

Sec. 0.3. This chapter applies to child support ordered in any proceeding, including a dissolution of marriage and a paternity action.

As added by P.L.80-2010, SEC.37.

IC 31-16-15-0.5

Income withholding orders; stay

Sec. 0.5. (a) Except as provided in subsection (c), in any proceeding in which a court has ordered, modified, or enforced periodic payments of child support, the court shall include a provision ordering that child support payments be immediately withheld from the income of the obligor in an amount necessary to comply with the support order, including amounts for current child support obligations, child support arrearage, medical support, interest, and fees.

(b) Except as provided in subsection (c), a court or Title IV-D agency shall implement an order for immediate income withholding under subsection (a):

(1) if the address of the obligor's income payor is known, not more than fifteen (15) calendar days after the date of the issuance of a support order; or

(2) if the address of the obligor's income payor is not known, not more than fifteen (15) calendar days after the date the address of the obligor's income payor becomes known.

(c) A court may stay implementation of an income withholding order only if one (1) or more of the following occurs:

(1) One (1) of the parties demonstrates and the court finds good cause not to order immediate income withholding by finding all of the following:

(A) A stay of implementation of the income withholding order is in the best interests of the child.

(B) The obligor has a history of substantially uninterrupted, full, and timely child support payments, other than payments made through an income withholding order or another mandatory process of previously ordered child support, during the previous twelve (12) months.

(C) The court issues a written finding that an income withholding order would cause an extraordinary hardship on the obligor.

(2) The parties submit a written agreement that:

(A) meets the requirements under subsection (d);

(B) is approved by the court; and

(C) is entered into the record of the court.

(d) A written agreement described in subsection (c)(2) must meet the following requirements:

(1) Contain the following:

(A) A statement that an income withholding order is not implemented immediately but that an income withholding order will be implemented if the:

(i) obligor's child support and arrearage payments become delinquent; or

(ii) obligor requests implementation of the income withholding order.

(B) A detailed description of an alternative payment arrangement between the parties to ensure the timely payment of child support.

(2) Contain a provision that the obligor shall provide current information to the court concerning the following:

(A) The name, address, and telephone number of the obligor's place of employment.

(B) Any health coverage available to the obligor as a benefit of employment or maintained by the obligor, including information on the:

(i) name of the carrier (as defined in IC 27-8-10-1);

(ii) health insurance policy, certificate, or contract number; and

(iii) if applicable, names and birth dates of the persons for whose benefit the obligor maintains health coverage under the health insurance policy, certificate, or contract.

(e) If possible, the court shall specify the date on which a stay of implementation of the income withholding order terminates automatically.

(f) In Title IV-D cases in which periodic payments of child support are ordered, modified, or enforced, the court shall order the obligor to inform the Title IV-D agency of the:

(1) name and address of the obligor's current income payor;

(2) obligor's access to health insurance coverage; and

(3) if applicable, obligor's health insurance policy information.

As added by P.L.103-2007, SEC.23. Amended by P.L.80-2010, SEC.38.

IC 31-16-15-1
Repealed

(Repealed by P.L.103-2007, SEC.51.)

IC 31-16-15-2
Lifting stay of implementation of income withholding order

Sec. 2. A court shall lift a stay of implementation of an income withholding order granted under section 0.5(c) of this chapter upon occurrence of one (1) or more of the following:

(1) The obligor's support payment becomes delinquent.

(2) The obligor requests implementation of the income withholding order.

As added by P.L.1-1997, SEC.8. Amended by P.L.103-2007, SEC.24.

IC 31-16-15-2.5

Income withholding order issued by Title IV-D agency; implementation

Sec. 2.5. (a) If, in a Title IV-D case, an income withholding order has not been issued with a support order under section 0.5 of this chapter, a Title IV-D agency shall:

(1) issue an income withholding order as required under IC 31-25-4-17 unless the court has stayed the implementation of the income withholding order under section 0.5(c) of this chapter; and

(2) provide notice under section 3.5 of this chapter to the obligor.

(b) In a Title IV-D case in which the implementation of an income withholding order was stayed under section 0.5(c) of this chapter, the Title IV-D agency shall:

(1) provide notice under section 3.5 of this chapter and lift the stay by issuing an income withholding order if the obligor's child support and arrearage payments are delinquent; or

(2) lift the stay by issuing an income withholding order if the obligor requests implementation of the income withholding order.

(c) In a Title IV-D case, if:

(1) an income withholding order was stayed under section 0.5(c) of this chapter; and

(2) an obligor requests the implementation of the income withholding order;

the Title IV-D agency is not required to give notice under section 3.5 of this chapter when implementing the income withholding order.

(d) An income withholding order issued under subsection (a) or (b):

(1) has the same force and effect; and

(2) is enforceable in the same manner;

as an income withholding order issued by a court.

(e) The total amount required to be withheld under an income withholding order implemented under this section is the sum of:

(1) the obligor's current child support obligation; plus

(2) the amount of arrearage payment ordered by the court; plus

(3) an additional amount as determined under subsection (f) for:

(A) any arrearage that has not been adjudicated, if no arrearage has been adjudicated previously; or

(B) any additional arrearage that:

(i) has not been adjudicated; and

(ii) accrues since the last adjudication of arrearage by the court.

(f) If an obligor subject to an income withholding order is in arrears, unless otherwise ordered by a court, the Title IV-D agency or its agent may increase the weekly amount withheld as follows:

(1) If the arrearages are at least ten dollars ($10) and less than five hundred dollars ($500), an additional amount of up to ten dollars ($10).

(2) If the arrearages are at least five hundred dollars ($500) and less than three thousand dollars ($3,000), an additional amount of up to twenty dollars ($20).
(3) If the arrearages are at least three thousand dollars ($3,000) and less than five thousand dollars ($5,000), an additional amount of up to twenty-five dollars ($25).
(4) If the arrearages are at least five thousand dollars ($5,000) and less than ten thousand dollars ($10,000), an additional amount of up to thirty dollars ($30).
(5) If the arrearages are at least ten thousand dollars ($10,000) and less than fifteen thousand dollars ($15,000), an additional amount of up to thirty-five dollars ($35).
(6) If the arrearages are at least fifteen thousand dollars ($15,000) and less than twenty thousand dollars ($20,000), an additional amount of up to forty dollars ($40).
(7) If the arrearages are at least twenty thousand dollars ($20,000) and less than twenty-five thousand dollars ($25,000), an additional amount of up to forty-five dollars ($45).
(8) If the arrearages are at least twenty-five thousand dollars ($25,000), an additional amount of up to fifty dollars ($50).

(g) A court is not bound by and is not required to consider the additional amounts described in subsection (f) when ordering, modifying, or enforcing periodic payments of child support.

As added by P.L.103-2007, SEC.25. Amended by P.L.123-2014, SEC.5.

IC 31-16-15-2.6
Income withholding order; payment in full

Sec. 2.6. An income withholding order issued under this chapter remains in effect until a child support obligation, including current child support, child support arrearage, medical support, interest, and fees, is paid in full.

As added by P.L.103-2007, SEC.26.

IC 31-16-15-2.7
Income withholding order; forms

Sec. 2.7. (a) The bureau shall:
(1) prescribe standard forms for:
(A) an income withholding order; and
(B) a notice form; and
(2) make the forms listed in subdivision (1) available to:
(A) a court;
(B) a private attorney;
(C) an obligor; and
(D) an obligee.

(b) An income withholding order under this chapter must be issued in a form substantially similar to the form prescribed under subsection (a)(1)(A).

(c) An income withholding order form under subsection (a)(1)(A) must contain the following:

(1) The amount of income to be withheld.
(2) A statement that the total amount of income to be withheld is the sum of the following:
(A) The obligor's current child support obligation.
(B) The amount of any child support arrearage ordered by the court.
(C) An additional amount as determined under section 2.5(f) of this chapter for:
(i) any arrearage that has not been adjudicated, if no arrearage has been adjudicated previously; or
(ii) any additional arrearage that has not been adjudicated and accrues since the last adjudication of arrearage by the court.
(D) A fee of two dollars ($2) that must be paid at the income payor's option to the income payor each time the income payor forwards income to the state central collection unit.
(3) A statement that the total amount withheld under the income withholding order plus the fee under subdivision (2)(D) may not exceed the maximum amount permitted under 15 U.S.C. 1673(b).
(4) A statement that an income payor shall:
(A) begin withholding income not later than the first pay date after fourteen (14) days following the date the income withholding order is received by the income payor; and
(B) report to the state central collection unit the date on which the income was withheld from the obligor's income.
(5) A statement that if an income payor is required to withhold income from more than one (1) obligor, the income payor may combine the withheld amount of income into a single payment for all obligors who are required to make payments to the state central collection unit if the income payor identifies the part of the single payment that is attributable to each individual obligor.
(6) A statement that if the obligor has:
(A) more than one (1) income withholding order against the obligor; and
(B) insufficient disposable earnings to pay the amount of income withholding for all income withholding orders;
an income payor shall honor all withholdings to the extent that the total amount withheld does not exceed limits imposed under 15 U.S.C. 1673(b).
(7) A statement that the income payor shall distribute the withheld income pro rata among the persons entitled to receive income under the income withholding orders, giving priority to orders for current child support.
(8) A statement that the income payor may not distribute income as described under subdivision (7) in a manner that would result in one (1) of the current child support obligations not being honored.
(9) A statement that the income payor shall forward the amount withheld for current support and any arrears to the state central

collection unit with a statement identifying the:

(A) cause number for the obligee;

(B) name of the obligor;

(C) name of the obligee with the applicable income withheld for each obligee forwarded from the income payor; and

(D) Indiana support enforcement tracking system (ISETS) or its successor statewide automated support enforcement system number for each obligee.

(10) A statement that the income withholding order is binding upon the income payor until further notice by the Title IV-D agency.

(11) A statement that if an income payor:

(A) discharges the obligor from employment;

(B) refuses to employ the obligor;

(C) takes disciplinary action against the obligor employed by the income payor; or

(D) otherwise discriminates against the obligor;

because of the existence of an income withholding order or the obligations imposed upon the income payor by the income withholding order, the income payor is subject to a penalty of not more than five thousand dollars ($5,000) payable to the state and recoverable in a civil action.

(12) A statement that if an income payor fails to withhold income in accordance with the income withholding order, the income payor is liable for:

(A) the accumulated amount the income payor should have withheld from the obligor's income; and

(B) any interest, attorney's fees, and costs.

(13) A statement that an income withholding order under this chapter has priority over any secured or unsecured claim on income, except for claims for federal, state, and local taxes.

(14) A statement that an income payor must:

(A) notify the Title IV-D agency if the obligor:

(i) ceases employment with; or

(ii) no longer receives income from;

the income payor, not later than ten (10) days after the date the obligor's employment or income ceases; and

(B) provide the obligor's last known address and the name and address of the obligor's new income payor, if known, to the Title IV-D agency.

As added by P.L.103-2007, SEC.27. Amended by P.L.80-2010, SEC.39; P.L.128-2012, SEC.39.

IC 31-16-15-3
Repealed

(Repealed by P.L.103-2007, SEC.51.)

IC 31-16-15-3.5
Notice to withhold income

Sec. 3.5. (a) Except as provided under section 2.5(c) of this

chapter, a Title IV-D agency shall issue a notice to withhold income to an obligor when the Title IV-D agency implements an income withholding order under section 2.5(a) or 2.5(b) of this chapter. The notice is sufficient for all future income withholding until the child support obligation is fully satisfied.

(b) The notice under subsection (a) must contain the following:

(1) A statement that income withholding has commenced, and if the notice is provided for an income withholding order issued under section 2.5(b) of this chapter, that the stay has been lifted.

(2) A statement that an income withholding order will be sent to all current and future income payors.

(3) If applicable, the amount of child support that the obligor is in arrears.

(4) A statement that the income shall be:

(A) withheld by a current and future income payor from the obligor's income for the payment of child support; and

(B) forwarded to the state central collection unit with a statement identifying the:

(i) cause number for the obligee;

(ii) name of the obligor;

(iii) name of the obligee with the applicable income withheld for each obligee forwarded from the income payor; and

(iv) Indiana support enforcement tracking system (ISETS) or its successor statewide automated support enforcement system number for each obligee.

(5) A statement that the total amount of income to be withheld by the Title IV-D agency under the income withholding order is the sum of:

(A) the obligor's current child support obligation; plus

(B) the amount of any arrearage payment ordered by the court; plus

(C) an additional amount as determined under section 2.5(f) of this chapter for:

(i) any arrearage that has not been adjudicated, if no arrearage has been adjudicated previously; or

(ii) any additional arrearage that has not been adjudicated and accrues since the last adjudication of arrearage by the court; plus

(D) a fee of two dollars ($2), which must be paid at the income payor's option to the income payor each time the income payor forwards income to the state central collection unit.

(6) A statement that:

(A) the total amount withheld under the income withholding order may not exceed the maximum amount permitted under 15 U.S.C. 1673(b);

(B) the income withholding order applies to the receipt of any current or subsequent income from a current or future income payor;

(C) the obligor may contest the Title IV-D agency's determination to implement an income withholding order by making written application to the Title IV-D agency not more than twenty (20) days after the date the notice under this section is mailed to the obligor;
(D) the only basis for contesting the implementation of an income withholding order is a mistake of fact;
(E) if the obligor contests the Title IV-D agency's determination to implement the income withholding order, the Title IV-D agency shall schedule an administrative hearing;
(F) an income payor shall:
(i) begin withholding income not later than the first pay date after fourteen (14) days following the date the income withholding order is received by the income payor; and
(ii) report to the state central collection unit the date on which the income was withheld from the obligor's income;
(G) if an income payor is required to withhold income from more than one (1) obligor, the income payor may combine the withheld amount of income into a single payment for all obligors who are required to make payments to the state central collection unit if the income payor identifies the part of the single payment that is attributable to each individual obligor;
(H) if the obligor has:
(i) more than one (1) income withholding order against the obligor; and
(ii) insufficient disposable earnings to pay the amount of income withholding for all income withholding orders;
an income payor shall distribute the withheld income pro rata among the persons entitled to receive income under the income withholding orders, giving priority to a current income withholding order;
(I) an income payor shall honor all withholdings to the extent that the total amount withheld does not exceed limits imposed under 15 U.S.C. 1673(b);
(J) the income withholding order is binding upon the income payor until further notice by the Title IV-D agency;
(K) an income payor that:
(i) discharges the obligor from employment;
(ii) refuses to employ the obligor;
(iii) takes disciplinary action against the obligor employed by the income payor; or
(iv) otherwise discriminates against the obligor;
because of the existence of an income withholding order or the obligations imposed upon the income payor by the income withholding order is subject to a penalty not to exceed five thousand dollars ($5,000) payable to the state and recoverable in a civil action;
(L) if an income payor fails to withhold income in

accordance with the income withholding order, the income payor is liable for:

(i) the accumulated amount the income payor should have withheld from the obligor's income; and

(ii) any interest, attorney's fees, and costs;

(M) an income withholding order under this chapter has priority over any secured or unsecured claim on income, except for claims for federal, state, and local taxes; and

(N) the income payor must notify the Title IV-D agency if the obligor:

(i) ceases employment with; or

(ii) no longer receives income from;

the income payor, not later than ten (10) days after the date the obligor's employment or income ceases, and provide the obligor's last known address and the name and address of the obligor's new income payor, if known, to the Title IV-D agency.

(c) If the Title IV-D agency issues a notice to withhold income to the obligor under this section, the Title IV-D agency is not required to provide further notice to continue to implement or amend the income withholding order unless the income withholding order is stayed by the court under section 0.5(c) of this chapter.

As added by P.L.103-2007, SEC.28. Amended by P.L.128-2012, SEC.40; P.L.123-2014, SEC.6.

IC 31-16-15-4

Repealed

(Repealed by P.L.103-2007, SEC.51.)

IC 31-16-15-4.3

Income withholding order; contesting implementation

Sec. 4.3. (a) An obligor may contest a Title IV-D agency's determination to implement an income withholding order under section 2.5(a) or 2.5(b) of this chapter by making a written application to the Title IV-D agency not more than twenty (20) days after the date the notice is mailed to the obligor.

(b) The only basis on which an obligor may contest the implementation of an income withholding order under section 2.5(a) or 2.5(b) of this chapter is mistake of fact.

(c) A Title IV-D agency shall:

(1) not more than twenty-five (25) days after an obligor makes written application to contest an income withholding order under subsection (a), hold a hearing to review the Title IV-D agency's determination to implement the income withholding order; and

(2) make a determination on the implementation of the income withholding order at the hearing.

As added by P.L.103-2007, SEC.29. Amended by P.L.123-2014, SEC.7.

IC 31-16-15-4.5
National Medical Support Notice

Sec. 4.5. (a) The bureau shall send notice to an employer, using the National Medical Support Notice described in 45 CFR 303.32, that:

(1) a parent ordered to pay support has been ordered to provide insurance coverage as part of the parent's employee benefit plan under IC 31-16-6-4; or

(2) an obligation to provide insurance coverage under subdivision (1) is no longer in effect.

(b) Upon receipt of the notice under subsection (a), the employer shall:

(1) respond to the notice in a timely fashion;

(2) transfer the National Medical Support Notice to the employer's health insurance plan within twenty (20) days after the date of the National Medical Support Notice; and

(3) abide by the terms of establishing insurance coverage as required by the notice.

As added by P.L.86-2002, SEC.12. Amended by P.L.145-2006, SEC.239; P.L.103-2007, SEC.30; P.L.80-2010, SEC.40.

IC 31-16-15-5
Repealed

(Repealed by P.L.103-2007, SEC.51.)

IC 31-16-15-5.5
Income withholding order; lifting stay of implementation

Sec. 5.5. (a) An obligor or an obligee may file a petition to lift a stay of implementation of an income withholding order.

(b) If an obligee files a petition under subsection (a), the court shall:

(1) set a date for a hearing on the petition; and

(2) send a written notice of the hearing to lift the stay of implementation of the income withholding order to the obligor in accordance with subsection (c).

The court must set a date for the hearing that is not more than twenty (20) days after the date the petition is filed.

(c) The notice under subsection (b)(2) must include the following:

(1) A statement as to whether the obligor is delinquent in the payment of child support.

(2) If applicable, the amount of child support the obligor is in arrears.

(3) A statement that if the petition is granted, the obligor's income shall be:

(A) withheld by the court for the payment of child support; and

(B) forwarded to the state central collection unit with a statement identifying:

(i) the cause number for each obligee;

(ii) the name of each obligor;

(iii) the name of each obligee with the amount of the withheld income forwarded by the income payor;
(iv) the Social Security number of each obligor; and
(v) the Indiana support enforcement tracking system (ISETS) or its successor statewide automated support enforcement system number for each obligee.

(4) The following statements:

(A) That the total amount of income to be withheld under an income withholding order from the obligor's income is the sum of:

(i) the obligor's current child support obligation; plus
(ii) the amount of arrearage payment ordered by the court; plus
(iii) a fee of two dollars ($2), which must be paid at the income payor's option to the income payor each time the income payor forwards income to the state central collection unit.

(B) That the total amount of income withheld may not exceed the maximum amount permitted by 15 U.S.C. 1673(b).

(C) That the income withholding order applies to the receipt of any current or subsequent income.

(D) That the only basis for contesting the petition to lift the stay of implementation of the income withholding order is a mistake of fact.

(E) That an obligor may contest the court's lifting the stay of the income withholding order by appearing at the hearing scheduled by the court on the petition to lift the stay.

(F) That if the obligor does not appear at the hearing, the court shall implement the income withholding order.

(G) That an income payor shall:

(i) begin withholding income not later than the first pay date after fourteen (14) days following the date the income withholding order is received by the income payor; and
(ii) report to the state central collection unit the date on which the income was withheld from the obligor's income.

(H) That if an income payor is required to withhold income from more than one (1) obligor, the income payor may combine the withheld amount of income into a single payment for all obligors who are required to make payments to the state central collection unit if the income payor identifies the part of the single payment that is attributable to each individual obligor.

(I) That if an obligor has:

(i) more than one (1) income withholding order against the obligor; and
(ii) insufficient disposable earnings to pay the amount of income withholding for all income withholding orders;

the income payor shall distribute the withheld income pro rata among the persons entitled to receive income under the

income withholding orders, giving priority to a current income withholding order.

(J) That an income payor shall honor all withholding to the extent that the total amount withheld does not exceed limits imposed under 15 U.S.C. 1673(b).

(K) That the income withholding is binding upon the income payor until further notice by the court.

(L) That an income payor that:

(i) discharges the obligor from employment;

(ii) refuses to employ the obligor;

(iii) takes disciplinary action against the obligor employed by the income payor; or

(iv) otherwise discriminates against the obligor;

because of the existence of an income withholding order or the obligations imposed upon the income payor by the income withholding order, is subject to a penalty not to exceed five thousand dollars ($5,000) payable to the state and recoverable in a civil action.

(M) That if the income payor fails to withhold income in accordance with the income withholding order, the income payor is liable for:

(i) the accumulated amount the income payor should have withheld from the obligor's income; and

(ii) any interest, attorney's fees, and costs.

(N) That an income withholding order under this chapter has priority over any secured or unsecured claim on income, except for claims for federal, state, and local taxes.

(O) That the income payor must notify the court if the obligor:

(i) ceases employment with; or

(ii) no longer receives income from;

the income payor not later than ten (10) days after the date the obligor's employment or income ceases and provide the obligor's last known address and the name and address of the obligor's new income payor, if known, to the court.

(d) At a hearing under this section, the court shall grant the petition to lift the stay of implementation of the income withholding order if the obligor has failed to comply with the provisions of the support order, unless the court finds that the conditions under section 0.5(c)(2) of this chapter have been met.

(e) If the obligor files a petition to lift the stay of implementation of the income withholding order:

(1) a hearing is not required; and

(2) the court shall grant the petition.

(f) If the court grants the petition to lift the stay of implementation of the income withholding order, the court shall:

(1) implement the income withholding order; and

(2) send the income withholding order to the obligor's income payor.

As added by P.L.103-2007, SEC.31. Amended by P.L.128-2012,

SEC.41.

IC 31-16-15-6
Repealed
(Repealed by P.L.103-2007, SEC.51.)

IC 31-16-15-6.5
Serving an income withholding order
Sec. 6.5. A court or Title IV-D agency may serve an income withholding order on an income payor by:
(1) first class mail;
(2) facsimile transmission; or
(3) other electronic means approved by the Title IV-D agency.
As added by P.L.103-2007, SEC.32.

IC 31-16-15-7
Repealed
(Repealed by P.L.103-2007, SEC.51.)

IC 31-16-15-7.5
Income payor duties
Sec. 7.5. (a) An income payor that is required to withhold income under this chapter shall:
(1) forward income withheld for the payment of current or past due child support as directed by an income withholding order to the state central collection unit at the time that an obligor is paid;
(2) include a statement that identifies the:
(A) cause number for each obligee;
(B) Indiana support enforcement tracking system (ISETS) or its successor statewide automated support enforcement system case number for each obligee;
(C) name of each obligor and the obligor's Social Security number;
(D) name of each obligee with the amount of the withheld income forwarded by the income payor; and
(E) date on which the amount was withheld from the obligor's income; and
(3) begin withholding income not later than the first pay date after fourteen (14) days following the date the order for income withholding is received by the income payor.
(b) An income payor may retain, in addition to the amount of income forwarded to the state central collection unit, a fee of not more than two dollars ($2) each time the income payor forwards income to the state central collection unit. If an income payor retains a fee under this subsection, the income payor shall reduce the amount of income withheld for the payment of current and past due child support, if necessary to avoid exceeding the maximum amount permitted to be withheld under 15 U.S.C. 1673(b).
As added by P.L.103-2007, SEC.33. Amended by P.L.80-2010,

SEC.41; P.L.128-2012, SEC.42.

IC 31-16-15-8
Repealed
(Repealed by P.L.103-2007, SEC.51.)

IC 31-16-15-9
Repealed
(Repealed by P.L.103-2007, SEC.51.)

IC 31-16-15-10
Repealed
(Repealed by P.L.103-2007, SEC.51.)

IC 31-16-15-11
Repealed
(Repealed by P.L.103-2007, SEC.51.)

IC 31-16-15-12
Repealed
(Repealed by P.L.103-2007, SEC.51.)

IC 31-16-15-13
Repealed
(Repealed by P.L.103-2007, SEC.51.)

IC 31-16-15-14
Repealed
(Repealed by P.L.103-2007, SEC.51.)

IC 31-16-15-15
Repealed
(Repealed by P.L.103-2007, SEC.51.)

IC 31-16-15-16
Combination of withheld amounts for multiple obligors in single payment; multiple withholdings paid electronically; civil penalty

Sec. 16. (a) Except as provided in subsection (b), if the income payor is required to withhold income from more than one (1) obligor under this chapter, the income payor may combine in a single payment the withheld amounts for all obligors who have been ordered to pay to the state central collection unit established by IC 31-25-3-1 if the income payor separately identifies the part of the single payment that is attributable to each individual obligor.

(b) If the income payor:

(1) is required to withhold income from more than one (1) obligor under this chapter; and

(2) employs more than fifty (50) employees;

the income payor shall make payments to the state central collection unit established by IC 31-25-3-1 through electronic funds transfer or

through electronic or Internet access made available by the state central collection unit.

(c) The department of child services shall assess a civil penalty of twenty-five dollars ($25) per obligor per pay period against an income payor that:

(1) is required to make a payment under subsection (b); and

(2) does not make the payment through electronic funds transfer or other means described in subsection (b).

The department shall deposit the penalties into the state general fund.

As added by P.L.1-1997, SEC.8. Amended by P.L.86-2002, SEC.13; P.L.234-2005, SEC.91; P.L.148-2006, SEC.24; P.L.103-2007, SEC.34.

IC 31-16-15-17

Multiple withholding orders against single obligor; pro rata distribution of withheld earnings

Sec. 17. (a) If there is more than one (1) order for withholding against a single obligor under this chapter and the obligor has insufficient disposable earnings to pay the amount required by all the orders, the income payor shall:

(1) honor all withholdings to the extent that the total amount withheld does not exceed the limits imposed under 15 U.S.C. 1673(b); and

(2) distribute the withheld income pro rata among the persons entitled to receive income under the income withholding orders, giving priority to orders for current child support.

(b) The income payor may not distribute income under subsection (a) in a manner that would result in one (1) of the current child support obligations not being honored.

As added by P.L.1-1997, SEC.8. Amended by P.L.103-2007, SEC.35; P.L.80-2010, SEC.42.

IC 31-16-15-18

Notice by income payor following cessation of employment or income

Sec. 18. The income payor shall:

(1) notify:

(A) the Title IV-D agency in a case arising under section 2.5 of this chapter; or

(B) the court in a case arising under section 0.5, 2, or 5.5 of this chapter;

when the obligor ceases to receive income not later than ten (10) days after the employment or income ceases; and

(2) provide:

(A) the obligor's last known address; and

(B) the name and address of the obligor's new income payor if known.

As added by P.L.1-1997, SEC.8. Amended by P.L.103-2007, SEC.36.

IC 31-16-15-19

Severance pay, accumulated sick pay, vacation pay, accumulated commissions, bonuses, or other lump sum payments; withholding of support arrearages

Sec. 19. (a) If an obligor:

(1) is entitled to net income in the form of:

(A) severance pay;

(B) accumulated sick pay;

(C) vacation pay;

(D) accumulated commissions;

(E) a bonus payment in addition to regular earned income; or

(F) other lump sum payment; and

(2) owes an amount of child support that is in arrears;

the income payor shall withhold the amount in arrears or the product computed under subsection (b), whichever is less, up to the maximum permitted under 15 U.S.C. 1673(b).

(b) The income payor shall multiply:

(1) the amount of support the obligor is required to pay each week; by

(2) the number of weeks represented by the lump sum payment.

As added by P.L.1-1997, SEC.8. Amended by P.L.103-2007, SEC.37.

IC 31-16-15-20

Payments by clerk or state central collection unit to persons entitled to receive child support

Sec. 20. (a) This subsection applies before January 1, 2007. The clerk of the court shall:

(1) pay the income forwarded by the income payor to the person entitled to receive child support payments; and

(2) maintain records to monitor and document the receipt and payment of income under this chapter.

(b) Beginning January 1, 2007, the clerk of the court, for cash payments, and the state central collection unit, for noncash payments, shall:

(1) pay the income forwarded by the income payor to the person entitled to receive child support payments; and

(2) maintain records to monitor and document the receipt and payment of income under this chapter.

As added by P.L.1-1997, SEC.8. Amended by P.L.148-2006, SEC.25.

IC 31-16-15-21

Repealed

(Repealed by P.L.103-2007, SEC.51.)

IC 31-16-15-22

Termination of income withholding

Sec. 22. (a) An income withholding order under section 0.5 or 2.5 of this chapter (or IC 31-2-10-7 before its repeal) terminates when both of the following occur:

(1) The duty to support a child ceases under IC 31-14 or IC 31-16-2 through IC 31-16-12.

(2) No child support arrearage exists.

(b) A court or Title IV-D agency may terminate income withholding when the whereabouts of the child and the child's custodial parent are unknown, preventing the forwarding of child support payments.

As added by P.L.1-1997, SEC.8. Amended by P.L.103-2007, SEC.38.

IC 31-16-15-23

Liability of income payors

Sec. 23. (a) If an income payor fails to forward the money required by an income withholding order, the Title IV-D agency shall send the income payor, by certified mail, a notice of failure to comply. If the income payor fails to forward the money required by an income withholding order within thirty (30) days after receipt of the notice of failure to comply, the income payor is liable for the amount the income payor fails to forward.

(b) An income payor described in subsection (a) is liable to the:

(1) obligee for the amount of income not paid in compliance with the income withholding order, including an amount the obligor is required to pay for health insurance coverage; and

(2) obligor for:

(A) the amount of income withheld and not paid as required under the income withholding order;

(B) an amount equal to the interest that accrues according to the interest percentage that accrues on judgments; and

(C) reasonable attorney's fees and court costs.

(c) An income payor that:

(1) receives an income withholding order from a court or Title IV-D agency; and

(2) fails to comply with the income withholding order;

may be liable for contempt of court.

(d) If an obligor has filed a claim for worker's compensation, the income payor of the obligor shall send a copy of the income withholding order to the income payor's insurance carrier if the income payor has an insurance carrier with whom the claim has been filed in order to continue the ordered withholding of income.

As added by P.L.1-1997, SEC.8. Amended by P.L.103-2007, SEC.39.

IC 31-16-15-23.5

Normal pay and distribution cycles unaffected

Sec. 23.5. An income payor is not required to vary the income payor's normal pay and distribution cycles in order to comply with this chapter.

As added by P.L.80-2010, SEC.43.

IC 31-16-15-23.7

Immunity from civil liability

Sec. 23.7. An income payor is not subject to civil liability for income withheld and paid to an obligee, the Title IV-D agency, or a state central collection unit in accordance with an income

withholding order that appears regular on its face.
As added by P.L.80-2010, SEC.44.

IC 31-16-15-24
Repealed
(Repealed by P.L.103-2007, SEC.51.)

IC 31-16-15-25
Income payor penalties
Sec. 25. (a) An income payor that:
(1) discharges from employment an obligor;
(2) refuses to employ an obligor;
(3) takes disciplinary action against an obligor employed by the income payor; or
(4) otherwise discriminates against an obligor;
because of the existence of an income withholding order or the obligations imposed upon the income payor by the income withholding order, is subject to a penalty not to exceed five thousand dollars ($5,000) payable to the state and recoverable in a civil action. An obligor or the Title IV-D agency may bring an action to enforce a penalty under this subsection.
(b) The collection of money under this section does not affect:
(1) the obligor's right to damages under IC 24-4.5-5-202; or
(2) any other legal remedy available to the obligor;
because of discharge from employment, refusal of employment, or disciplinary action.
As added by P.L.1-1997, SEC.8. Amended by P.L.103-2007, SEC.40.

IC 31-16-15-26
New income payor
Sec. 26. If the Title IV-D agency or the court becomes aware that the obligor has a new income payor after income withholding has been implemented:
(1) if the order is an income withholding order implemented under section 2.5 of this chapter, the Title IV-D agency; or
(2) if the order is an income withholding order implemented under section 0.5 of this chapter or an income withholding order implemented after a stay has been lifted under section 5.5 of this chapter, the court or the Title IV-D agency;
shall send the income withholding order to the new income payor.
As added by P.L.1-1997, SEC.8. Amended by P.L.103-2007, SEC.41.

IC 31-16-15-27
Priority of order over other claims
Sec. 27. An income withholding order under this chapter has priority over any secured or unsecured claim on income except claims for federal, state, and local taxes that are required to be withheld for the calendar year in which the income is subject to a withholding order.
As added by P.L.1-1997, SEC.8.

IC 31-16-15-28
Full faith and credit

Sec. 28. The courts and the Title IV-D agency shall give full faith and credit to income withholding orders that are issued in other states.

As added by P.L.1-1997, SEC.8.

IC 31-16-15-29
Registration of foreign support orders

Sec. 29. (a) The registration of a foreign support order as provided in IC 31-18-6 is sufficient for the implementation of an income withholding order by the Title IV-D agency.

(b) The Title IV-D agency shall issue a notice in accordance with section 3.5 of this chapter of the implementation of a foreign support order to the obligor.

As added by P.L.103-2007, SEC.42.

IC 31-16-15-30
Title IV-D agency civil liability

Sec. 30. A Title IV-D agency or an agent of a Title IV-D agency acting within the scope of the agent's employment is not subject to any civil liability for income withheld and paid to an obligee, the Title IV-D agency, or the state central collection unit in accordance with an income withholding order.

As added by P.L.103-2007, SEC.43.

IC 31-16-16

Chapter 16. Enforceable Judgment Against a Person Delinquent in Payment of Child Support

IC 31-16-16-1

Supplemental remedies

Sec. 1. This chapter supplements other remedies available for the enforcement of a support order.

As added by P.L.1-1997, SEC.8.

IC 31-16-16-2

Delinquent payment as judgment against obligor

Sec. 2. A payment that is:

(1) required under a support order; and

(2) delinquent;

shall be treated as a judgment against the obligor for the delinquent amount.

As added by P.L.1-1997, SEC.8.

IC 31-16-16-3

Judgment as lien; priority; perfection

Sec. 3. (a) A lien is created against the real and personal property of the obligor in the amount of a judgment described in section 2 of this chapter.

(b) A person holding a lien created by a judgment described in section 2 of this chapter:

(1) has the priority of an unperfected secured creditor in any enforcement proceeding instituted against the property; and

(2) may perfect the lien in the same manner as liens arising from other civil judgments are perfected.

As added by P.L.1-1997, SEC.8. Amended by P.L.3-2008, SEC.233.

IC 31-16-16-4

Mode of enforcement; disputed amount

Sec. 4. (a) An obligee may enforce a judgment created under section 2 of this chapter (or IC 31-2-11-8 before its repeal) in the same manner as other civil judgments are enforced.

(b) If in a proceeding to enforce a judgment created under section 2 of this chapter (or IC 31-2-11-8 before its repeal) an obligor or an income payor disputes the amount that constitutes a judgment, the court with jurisdiction over the enforcement proceeding may conduct a hearing to determine the amount of delinquent support that is a judgment.

As added by P.L.1-1997, SEC.8. Amended by P.L.3-2008, SEC.234.

IC 31-16-16-5

Recognition and enforcement of judgments

Sec. 5. The courts shall recognize and enforce:

(1) judgments created under section 2 of this chapter (or IC 31-2-11-8 before its repeal); and

(2) judgments for delinquent support payments that are created under the laws of another state.

As added by P.L.1-1997, SEC.8. Amended by P.L.3-2008, SEC.235.

IC 31-16-16-6

Modification of obligor's duty to pay

Sec. 6. (a) Except as provided in:

(1) subsection (b); or

(2) IC 31-14-19-1;

a court may not retroactively modify an obligor's duty to pay a delinquent support payment.

(b) A court with jurisdiction over a support order may modify an obligor's duty to pay a support payment that becomes due:

(1) after notice of the petition to modify the support order has been given either directly or through the appropriate agent to:

(A) the obligee; or

(B) if the obligee is the petitioner, the obligor; and

(2) before a final order concerning the petition for modification is entered.

As added by P.L.1-1997, SEC.8.

IC 31-16-17

Chapter 17. Liability for Support of Parents

IC 31-16-17-1

Duty to furnish support for parents

Sec. 1. Any individual:

(1) whose father or mother provided the individual with necessary food, shelter, clothing, medical attention, and education until the individual reached sixteen (16) years of age; and

(2) who is financially able due to the individual's own property, income, or earnings;

shall contribute to the support of the individual's parents if either parent is financially unable to furnish the parent's own necessary food, clothing, shelter, and medical attention. The individual shall also provide financial support for the parent's burial if the parent's burial is provided under IC 12-20-16-12.

As added by P.L.1-1997, SEC.8. Amended by P.L.139-2000, SEC.4.

IC 31-16-17-2

Action for support; parties plaintiff

Sec. 2. An action for support of a parent may be instituted against a child for violation of the duty to support a parent as required by section 1 of this chapter by filing a verified complaint in a circuit or superior court of the county of the residence of either parent. The plaintiff or plaintiffs must be:

(1) the parent or parents; or

(2) the:

(A) prosecuting attorney of the judicial circuit;

(B) local office of the county in which the parent resides;

(C) township trustee of the township in which the parent resides; or

(D) division of family resources;

on behalf of the parent.

As added by P.L.1-1997, SEC.8. Amended by P.L.3-2008, SEC.236; P.L.128-2012, SEC.43.

IC 31-16-17-3

Averments of complaint

Sec. 3. The complaint must allege definite specific facts to establish:

(1) the duty to support; and

(2) the violation of the duty to support.

As added by P.L.1-1997, SEC.8.

IC 31-16-17-4

Standing; costs

Sec. 4. (a) Any of the following may prosecute a civil action for support of a parent:

(1) The parent.

(2) The township trustee.
(3) The department.
(4) The director of the division of family resources.
(5) The prosecuting attorney.
(b) Costs may not be taxed against:
(1) the prosecuting attorney;
(2) the department;
(3) the township trustee; or
(4) the director of the division of family resources.
As added by P.L.1-1997, SEC.8. Amended by P.L.145-2006, SEC.240; P.L.128-2012, SEC.44.

IC 31-16-17-5
Attorney's fees
Sec. 5. In an action brought under this chapter in which:
(1) the parent is the plaintiff; and
(2) judgment is entered for the plaintiff;
the plaintiff is also entitled to recover reasonable attorney's fees, which the court trying the action shall enter as a part of the judgment.
As added by P.L.1-1997, SEC.8.

IC 31-16-17-6
Pleading; service of notice on defendant
Sec. 6. Notice shall be served upon a defendant and issues shall be made upon the verified complaint as in other civil actions.
As added by P.L.1-1997, SEC.8.

IC 31-16-17-7
Additional parties defendant; admissibility of evidence
Sec. 7. (a) The court on the court's own motion may order other children made additional parties defendant.
(b) In the trial of the action, evidence may be admitted concerning support and care furnished to or by children other than the defendants.
As added by P.L.1-1997, SEC.8.

IC 31-16-17-8
Appeal and review
Sec. 8. (a) If:
(1) the finding of the court; or
(2) the verdict of the jury;
is for or against the defendant, each party aggrieved by the finding or verdict may file a motion for a new trial and other proceedings that are proper in other civil actions.
(b) Appeals may be taken as in other civil actions.
As added by P.L.1-1997, SEC.8.

IC 31-16-17-9
Jury verdict
Sec. 9. If the trial is by jury, the verdict of the jury must state only

that the jury finds in favor of each party that should recover.
As added by P.L.1-1997, SEC.8.

IC 31-16-17-10
Judgment and order

Sec. 10. If the verdict or finding of the court is against a defendant, the court shall:

(1) enter judgment against the defendant or defendants; and

(2) order that adequate provision be made for the support of the parent or parents, taking into consideration:

(A) the needs of the parent or parents;

(B) the ability of the defendant to pay; and

(C) the evidence given in the action concerning treatment given the child by the parent when obligated to support the child.

As added by P.L.1-1997, SEC.8.

IC 31-16-17-11
Continuing order; modification; execution

Sec. 11. (a) An order of the court under section 10 of this chapter is a continuing order. The court has jurisdiction to modify the order with respect to:

(1) the order's continuation;

(2) the amount of support; and

(3) the method of payment at any time during the need of the parent or during the financial ability of the child.

(b) The order:

(1) must be for the payment of periodical amounts, equal or varying; and

(2) may be apportioned in different amounts between the respective children who may be parties defendant to the proceedings.

(c) Execution of the order:

(1) may issue on the judgment if an amount is due on the judgment; and

(2) shall be executed without any relief from valuation, appraisement, or exemption laws.

As added by P.L.1-1997, SEC.8.

IC 31-16-17-12
Contempt

Sec. 12. If a defendant is in default for failure to comply with the order and judgment of the court, the same process may be used for contempt of court as in divorce proceedings.
As added by P.L.1-1997, SEC.8.

IC 31-16-18
Repealed

(Repealed by P.L.197-1997, SEC.29.)

IC 31-16-19

Chapter 19. Requirement That Support for Certain Dependents Be Paid Into Court or to Title IV-D Agency

IC 31-16-19-1

Payment into court or agency

Sec. 1. (a) If:

(1) an individual, by the terms of a court order or decree, is ordered to pay support money to or for the dependent wife, husband, father, or mother of the individual; and

(2) the:

(A) dependents are being supported in whole or in part by public money; or

(B) parent of the dependents has sought the assistance of the agency designated to administer Title IV-D of the federal Social Security Act (42 U.S.C. 651 through 669);

the court shall order that the payment of the support money be made to the clerk of the circuit court of the county in which the decree or order is entered.

(b) If the support order is for a child:

(1) who qualifies for assistance under IC 12-14-1-1; or

(2) whose parent has sought the assistance of the agency designated to administer Title IV-D of the federal Social Security Act (42 U.S.C. 651 through 669);

the court shall order that the payment of the support be made to the agency of state government designated to administer Title IV-D of the federal Social Security Act (42 U.S.C. 651 through 669) in compliance with the federal regulations established for the administration of Title IV-D of the federal Social Security Act (42 U.S.C. 651 through 669).

(c) The order must contain:

(1) the date when the first support payment is to be made; and

(2) the frequency of the payments.

As added by P.L.1-1997, SEC.8. Amended by P.L.148-2006, SEC.26.

IC 31-16-19-2

Payments into court; accounting system

Sec. 2. If the court enters a decree or an order under section 1(a) of this chapter, the clerk shall:

(1) immediately set up an appropriate account system in the case; and

(2) maintain a continuous record of the payments to each account.

As added by P.L.1-1997, SEC.8. Amended by P.L.148-2006, SEC.27.

IC 31-16-20

Chapter 20. Transfer of Jurisdiction Over Support Orders

IC 31-16-20-1

Application of chapter

Sec. 1. This chapter applies whenever:

(1) there is pending in an Indiana court an order requiring a parent to make regular payments for the support of the parent's children:

(A) subsequent to the dissolution of the marriage of the parents of the children;

(B) as a result of a paternity action under IC 31-14 (or IC 31-6-6.1 before its repeal);

(C) as a result of a legal separation action under IC 31-15-3; or

(D) as a result of a child support action under IC 31-16-2; and

(2) it is shown to the court in which the order is pending that:

(A) the parent or other person rightfully having custody of the children is residing in a different county in Indiana from the county in which the:

(i) dissolution;

(ii) order under IC 31-14 (or IC 31-6-6.1 before its repeal);

(iii) order under IC 31-15-3; or

(iv) order under IC 31-16-2;

was obtained;

(B) the other parent of the children:

(i) no longer resides; or

(ii) is not regularly found;

in the county in which the dissolution, order under IC 31-14 (or IC 31-6-6.1 before its repeal), order under IC 31-15-3, or order under IC 31-16-2 was obtained; and

(C) it would be in the best interests of the children.

As added by P.L.1-1997, SEC.8. Amended by P.L.197-1997, SEC.12.

IC 31-16-20-2

Order of transfer of proceedings

Sec. 2. The court may order the proceedings with:

(1) all papers and files pertaining to the order for support; and

(2) certified copies of all orders for support;

transferred to the court having jurisdiction over such matters in the county in which the parent or other person having custody of the children is residing.

As added by P.L.1-1997, SEC.8.

IC 31-16-20-3

Acceptance of proceedings by transferee court

Sec. 3. The court to which the proceedings are transferred:

(1) shall accept the proceedings; and

(2) thereafter has jurisdiction over the children and matters

relating to their support by the parent so ordered.
As added by P.L.1-1997, SEC.8.

IC 31-16-20-4
Docket; civil costs fee

Sec. 4. The proceedings that are transferred shall be docketed as other civil matters are docketed, and a civil costs fee as provided in IC 33-37-4-4 shall be collected.
As added by P.L.1-1997, SEC.8. Amended by P.L.98-2004, SEC.102.

IC 31-16-20-5
Hearing requirement; contents of petition; notice

Sec. 5. (a) Except as provided in section 6 of this chapter, the order for the transfer of the proceedings may be made only after a hearing is held on a petition filed by or on behalf of the parent or other person having custody of the children.

(b) The petition must:

(1) set forth:

(A) the facts upon which the petition is based; and

(B) the reasons for requesting the transfer of the proceedings; and

(2) be verified.

(c) Notice shall be issued on the petition to the other parent notifying the other parent of:

(1) the pendency of the petition; and

(2) the time and place where the hearing will be heard.

(d) The hearing court shall:

(1) advance the hearing on the docket; and

(2) promptly hold the hearing.
As added by P.L.1-1997, SEC.8.

IC 31-16-20-6
Transfer without notice and hearing

Sec. 6. A court may enter an order for transfer of the proceedings without notice and a hearing if the petition required under section 5 of this chapter is:

(1) a joint petition; and

(2) filed on behalf of and verified by:

(A) the custodial parent or a person having custody of the children; and

(B) the noncustodial parent.
As added by P.L.1-1997, SEC.8.

IC 31-16-20-7
Application of chapter; multiple transfers

Sec. 7. (a) This chapter applies to proceedings pending in:

(1) the court in which the dissolution was obtained; or

(2) any other court to which the proceedings have been transferred.

(b) Any number of transfers may be made, as the best interests of

the children require.
As added by P.L.1-1997, SEC.8.

IC 31-16-21

Chapter 21. Annual Fee Payable to Court in Addition to Support Payments

IC 31-16-21-1

Payment; contempt

Sec. 1. (a) Whenever in any court proceeding an order is in force for the support and maintenance of the other party to the proceeding, the individual required to pay the support shall pay the support.

(b) The clerk, if the payment is in cash, or the state central collection unit, for all other forms of payment, shall collect from the individual, in addition to the payments, the fee specified in IC 33-37-5-6.

(c) The clerk may collect any unpaid fee in a proceeding for contempt.

(d) The state central collection unit may collect any unpaid fee through any lawful means, including income withholding.

As added by P.L.1-1997, SEC.8. Amended by P.L.98-2004, SEC.103; P.L.148-2006, SEC.28.

IC 31-16-21-2

Court ordered provision for payment

Sec. 2. The court entering an order described in section 1(a) of this chapter shall include a provision in the order that requires the individual to pay the support and maintenance fee.

As added by P.L.1-1997, SEC.8.

IC 31-16-21-3

Supplemental remedies

Sec. 3. This chapter is supplemental to all other statutes relating to support payments.

As added by P.L.1-1997, SEC.8.

IC 31-17

ARTICLE 17. FAMILY LAW: CUSTODY AND VISITATION RIGHTS

IC 31-17-1

Chapter 1. General Provisions

IC 31-17-1-1

Construction and application

Sec. 1. This chapter, IC 31-17-2, IC 31-17-4, IC 31-17-6, and IC 31-17-7 shall be construed and applied to promote the purpose and policy of this chapter, IC 31-17-2, IC 31-17-4, IC 31-17-6, and IC 31-17-7.

As added by P.L.1-1997, SEC.9.

IC 31-17-1-2

Purpose and policy

Sec. 2. The purpose and policy of this chapter, IC 31-17-2, IC 31-17-4, IC 31-17-6, and IC 31-17-7 are to provide for child custody.

As added by P.L.1-1997, SEC.9.

IC 31-17-2

Chapter 2. Actions for Child Custody and Modification of Child Custody Orders

IC 31-17-2-1

Jurisdiction

Sec. 1. Jurisdiction of a child custody proceeding under:

(1) this chapter, IC 31-17-4, IC 31-17-6, and IC 31-17-7; or

(2) IC 31-21 (or IC 31-17-3 before its repeal);

shall be determined under IC 31-21 (or IC 31-17-3 before its repeal).

As added by P.L.1-1997, SEC.9. Amended by P.L.138-2007, SEC.34.

IC 31-17-2-2

Application of Indiana Rules of Civil Procedure

Sec. 2. Proceedings under this chapter, IC 31-17-4, IC 31-17-6, and IC 31-17-7 must comply with the Indiana Rules of Civil Procedure.

As added by P.L.1-1997, SEC.9.

IC 31-17-2-3

Commencement of proceeding

Sec. 3. A child custody proceeding is commenced in the court by:

(1) a parent by filing a petition under IC 31-15-2-4, IC 31-15-3-4, or IC 31-16-2-3; or

(2) a person other than a parent by filing a petition seeking a determination of custody of the child.

As added by P.L.1-1997, SEC.9.

IC 31-17-2-4

Repealed

(Repealed by P.L.50-2006, SEC.9.)

IC 31-17-2-5

Responsive pleading or counter petition

Sec. 5. A responsive pleading or a counter petition may be filed under this chapter, IC 31-17-4, IC 31-17-6, or IC 31-17-7.

As added by P.L.1-1997, SEC.9.

IC 31-17-2-6

Hearing

Sec. 6. Custody proceedings must receive priority in being set for hearing.

As added by P.L.1-1997, SEC.9.

IC 31-17-2-7

Court to determine law and facts

Sec. 7. The court without a jury shall determine questions of law and fact.

As added by P.L.1-1997, SEC.9.

IC 31-17-2-8
Custody order

Sec. 8. The court shall determine custody and enter a custody order in accordance with the best interests of the child. In determining the best interests of the child, there is no presumption favoring either parent. The court shall consider all relevant factors, including the following:

(1) The age and sex of the child.

(2) The wishes of the child's parent or parents.

(3) The wishes of the child, with more consideration given to the child's wishes if the child is at least fourteen (14) years of age.

(4) The interaction and interrelationship of the child with:

(A) the child's parent or parents;

(B) the child's sibling; and

(C) any other person who may significantly affect the child's best interests.

(5) The child's adjustment to the child's:

(A) home;

(B) school; and

(C) community.

(6) The mental and physical health of all individuals involved.

(7) Evidence of a pattern of domestic or family violence by either parent.

(8) Evidence that the child has been cared for by a de facto custodian, and if the evidence is sufficient, the court shall consider the factors described in section 8.5(b) of this chapter.

As added by P.L.1-1997, SEC.9. Amended by P.L.96-1999, SEC.7; P.L.133-2002, SEC.32.

IC 31-17-2-8.3
Supervised parenting time; conviction of crime involving domestic or family violence; batterer's intervention program

Sec. 8.3. (a) This section applies if a court finds that a noncustodial parent has been convicted of a crime involving domestic or family violence that was witnessed or heard by the noncustodial parent's child.

(b) There is created a rebuttable presumption that the court shall order that the noncustodial parent's parenting time with the child must be supervised:

(1) for at least one (1) year and not more than two (2) years immediately following the crime involving domestic or family violence; or

(2) until the child becomes emancipated;

whichever occurs first.

(c) As a condition of granting the noncustodial parent unsupervised parenting time, the court may require the noncustodial parent to complete a batterer's intervention program certified by the Indiana coalition against domestic violence.

As added by P.L.133-2002, SEC.33. Amended by P.L.68-2005,

SEC.32; P.L.162-2011, SEC.12.

IC 31-17-2-8.5
Consideration of de facto custodian factors

Sec. 8.5. (a) This section applies only if the court finds by clear and convincing evidence that the child has been cared for by a de facto custodian.

(b) In addition to the factors listed in section 8 of this chapter, the court shall consider the following factors in determining custody:

(1) The wishes of the child's de facto custodian.

(2) The extent to which the child has been cared for, nurtured, and supported by the de facto custodian.

(3) The intent of the child's parent in placing the child with the de facto custodian.

(4) The circumstances under which the child was allowed to remain in the custody of the de facto custodian, including whether the child was placed with the de facto custodian to allow the parent now seeking custody to:

(A) seek employment;

(B) work; or

(C) attend school.

(c) If a court determines that a child is in the custody of a de facto custodian, the court shall make the de facto custodian a party to the proceeding.

(d) The court shall award custody of the child to the child's de facto custodian if the court determines that it is in the best interests of the child.

(e) If the court awards custody of the child to the child's de facto custodian, the de facto custodian is considered to have legal custody of the child under Indiana law.

As added by P.L.96-1999, SEC.8.

IC 31-17-2-9
Court interview of child in chambers

Sec. 9. (a) The court may interview the child in chambers to ascertain the child's wishes.

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

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

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

As added by P.L.1-1997, SEC.9.

IC 31-17-2-10
Professional personnel; court consultation; cross-examination

Sec. 10. (a) The court may seek the advice of professional personnel even if the professional personnel are not employed on a regular basis by the court. The advice shall be given in writing and made available by the court to counsel upon request.

(b) Counsel may call for cross-examination of any professional

personnel consulted by the court.
As added by P.L.1-1997, SEC.9.

IC 31-17-2-11
Temporary custodian

Sec. 11. (a) If, in a proceeding for custody or modification of custody under IC 31-15, this chapter, IC 31-17-4, IC 31-17-6, or IC 31-17-7, the court:

(1) requires supervision during the noncustodial parent's parenting time privileges; or

(2) suspends the noncustodial parent's parenting time privileges;

the court shall enter a conditional order naming a temporary custodian for the child.

(b) A temporary custodian named by the court under this section receives temporary custody of a child upon the death of the child's custodial parent.

(c) Upon the death of a custodial parent, a temporary custodian named by a court under this section may petition the court having probate jurisdiction over the estate of the child's custodial parent for an order under IC 29-3-3-6 naming the temporary custodian as the temporary guardian of the child.
As added by P.L.1-1997, SEC.9. Amended by P.L.68-2005, SEC.33.

IC 31-17-2-12
Investigation and report concerning custodial arrangements for child

Sec. 12. (a) In custody proceedings after evidence is submitted upon the petition, if a parent or the child's custodian so requests, the court may order an investigation and report concerning custodial arrangements for the child. The investigation and report may be made by any of the following:

(1) The court social service agency.

(2) The staff of the juvenile court.

(3) The local probation department or, if the child is the subject of a child in need of services case under IC 31-34, the department of child services.

(4) A private agency employed by the court for the purpose.

(5) A guardian ad litem or court appointed special advocate appointed for the child by the court under IC 31-17-6 (or IC 31-1-11.5-28 before its repeal).

(b) In preparing a report concerning a child, the investigator may consult any person who may have information about the child and the child's potential custodian arrangements. Upon order of the court, the investigator may refer the child to professional personnel for diagnosis. The investigator may consult with and obtain information from medical, psychiatric, or other expert persons who have served the child in the past without obtaining the consent of the parent or the child's custodian. However, the child's consent must be obtained if the child is of sufficient age and capable of forming rational and independent judgments. If the requirements of subsection (c) are

fulfilled, the investigator's report:

(1) may be received in evidence at the hearing; and

(2) may not be excluded on the grounds that the report is hearsay or otherwise incompetent.

(c) The court shall mail the investigator's report to counsel and to any party not represented by counsel at least ten (10) days before the hearing. The investigator shall make the following available to counsel and to any party not represented by counsel:

(1) The investigator's file of underlying data and reports.

(2) Complete texts of diagnostic reports made to the investigator under subsection (b).

(3) The names and addresses of all persons whom the investigator has consulted.

(d) Any party to the proceeding may call the investigator and any person whom the investigator has consulted for cross-examination. A party to the proceeding may not waive the party's right of cross-examination before the hearing.

As added by P.L.1-1997, SEC.9. Amended by P.L.146-2008, SEC.558.

IC 31-17-2-13

Joint legal custody; finding required for award

Sec. 13. The court may award legal custody of a child jointly if the court finds that an award of joint legal custody would be in the best interest of the child.

As added by P.L.1-1997, SEC.9.

IC 31-17-2-14

Joint legal custody; division of physical custody

Sec. 14. An award of joint legal custody under section 13 of this chapter does not require an equal division of physical custody of the child.

As added by P.L.1-1997, SEC.9.

IC 31-17-2-15

Joint legal custody; matters considered in making award

Sec. 15. In determining whether an award of joint legal custody under section 13 of this chapter would be in the best interest of the child, the court shall consider it a matter of primary, but not determinative, importance that the persons awarded joint custody have agreed to an award of joint legal custody. The court shall also consider:

(1) the fitness and suitability of each of the persons awarded joint custody;

(2) whether the persons awarded joint custody are willing and able to communicate and cooperate in advancing the child's welfare;

(3) the wishes of the child, with more consideration given to the child's wishes if the child is at least fourteen (14) years of age;

(4) whether the child has established a close and beneficial

relationship with both of the persons awarded joint custody;
(5) whether the persons awarded joint custody:
(A) live in close proximity to each other; and
(B) plan to continue to do so; and
(6) the nature of the physical and emotional environment in the home of each of the persons awarded joint custody.
As added by P.L.1-1997, SEC.9. Amended by P.L.3-2008, SEC.237.

IC 31-17-2-16
Counseling for child
Sec. 16. Upon:
(1) the court's own motion;
(2) the motion of a party;
(3) the motion of the child;
(4) the motion of the child's guardian ad litem; or
(5) the motion of the court appointed special advocate;
the court may order the custodian or the joint custodians to obtain counseling for the child under such terms and conditions as the court considers appropriate.
As added by P.L.1-1997, SEC.9. Amended by P.L.129-2005, SEC.2.

IC 31-17-2-17
Custodian may determine child's upbringing
Sec. 17. (a) Except:
(1) as otherwise agreed by the parties in writing at the time of the custody order; and
(2) as provided in subsection (b);
the custodian may determine the child's upbringing, including the child's education, health care, and religious training.
(b) If the court finds after motion by a noncustodial parent that, in the absence of a specific limitation of the custodian's authority, the child's:
(1) physical health would be endangered; or
(2) emotional development would be significantly impaired;
the court may specifically limit the custodian's authority.
As added by P.L.1-1997, SEC.9.

IC 31-17-2-18
Continuing supervision
Sec. 18. If both parents or all contestants agree to the order or if the court finds that, in the absence of the order, the child's physical health might be endangered or the child's emotional development significantly impaired, the court may order:
(1) the court social service agency;
(2) the staff of the juvenile court;
(3) the local probation department; or
(4) a private agency employed by the court for that purpose;
to exercise continuing supervision over the case to assure that the custodial or parenting time terms of the decree are carried out.
As added by P.L.1-1997, SEC.9. Amended by P.L.68-2005, SEC.34;

P.L.146-2008, SEC.559.

IC 31-17-2-19
Travel and other expenses of witnesses

Sec. 19. The court may tax as costs the payment of necessary travel and other expenses incurred by any person whose presence at the hearing the court considers necessary to determine the best interests of the child.

As added by P.L.1-1997, SEC.9.

IC 31-17-2-20
Confidentiality of interview, report, or investigation

Sec. 20. If the court finds it necessary to protect the child's welfare that the record of any interview, a report, or an investigation in a custody proceeding not be a public record, the court may make an appropriate order accordingly.

As added by P.L.1-1997, SEC.9.

IC 31-17-2-21
Modification of child custody order

Sec. 21. (a) The court may not modify a child custody order unless:

(1) the modification is in the best interests of the child; and

(2) there is a substantial change in one (1) or more of the factors that the court may consider under section 8 and, if applicable, section 8.5 of this chapter.

(b) In making its determination, the court shall consider the factors listed under section 8 of this chapter.

(c) The court shall not hear evidence on a matter occurring before the last custody proceeding between the parties unless the matter relates to a change in the factors relating to the best interests of the child as described by section 8 and, if applicable, section 8.5 of this chapter.

As added by P.L.1-1997, SEC.9. Amended by P.L.96-1999, SEC.9.

IC 31-17-2-21.1
Delegation of parenting time during deployment; automatically terminates upon return

Sec. 21.1. (a) Upon a motion of a parent who has received military deployment orders, the court may delegate the parent's parenting time, or a part of the parent's parenting time, during the time the parent is deployed to a person who has a close and substantial relationship with the parent's child if the court finds that delegating the parent's parenting time is in the best interests of the child.

(b) If a court delegates parenting time under subsection (a), the order delegating parenting time automatically terminates after the parent returns from deployment.

(c) A court may terminate an order delegating parenting time if the court determines that the delegated parenting time is no longer in the best interests of the child.

As added by P.L.55-2012, SEC.3.

IC 31-17-2-21.2
Military duties; expedited hearing; allow evidence by electronic means

Sec. 21.2. (a) Upon a motion of a parent who has received military temporary duty, deployment, or mobilization orders, the court shall hold an expedited hearing to determine or modify the custody of a child or parenting time with a child if the military duties of the parent have a material effect on the parent's ability to appear in person at a regularly scheduled hearing concerning custody or parenting time.

(b) Upon a motion of a parent who has received military temporary duty, deployment, or mobilization orders, the court shall, with reasonable notice, allow the parent to present testimony and evidence by:

(1) telephone;
(2) video teleconference;
(3) Internet; or
(4) other electronic means approved by the court;

in a custody or parenting time proceeding if the military duties of the parent have a material effect on the parent's ability to appear in person at a regularly scheduled hearing concerning custody or parenting time.

As added by P.L.55-2012, SEC.4.

IC 31-17-2-21.3
Parent's active duty service not a factor; temporary modification of custody

Sec. 21.3. (a) A court may not consider a parent's absence or relocation due to active duty service as a factor in determining custody or permanently modifying a child custody order.

(b) If a court temporarily modifies a custody order due to a parent's active duty service, the order temporarily modifying the custody order terminates automatically not later than ten (10) days after the date the parent notifies the temporary custodian in writing that the parent has returned from active duty service. This subsection does not prevent a court from modifying a child custody order as provided under this article after a parent returns from active duty service.

As added by P.L.80-2010, SEC.45.

IC 31-17-2-21.5
Security, bond, or guarantee

Sec. 21.5. The court may provide in:

(1) a custody order; or
(2) a modification to a custody order;

for the security, bond, or other guarantee that is satisfactory to the court to secure enforcement of the custody order.

As added by P.L.171-2001, SEC.11.

IC 31-17-2-21.7

Security, bond, or guarantee; determinations

Sec. 21.7. (a) The court shall consider requiring security, a bond, or another guarantee under section 21.5 of this chapter if the court makes a finding under subdivision (1), (2), (4), or (7) by clear and convincing evidence. If the court makes a finding under subdivision (1), (2), (4), or (7), the court shall also consider subdivisions (3), (5), (6), (8), and (9) in determining the amount of security, bond, or other guarantee. In making a determination under this section, the court shall consider the following:

(1) Whether a party has previously taken a child out of Indiana or another state in violation of a custody, parenting time, or visitation order.

(2) Whether a party has previously threatened to take a child out of Indiana or another state in violation of a custody, parenting time, or visitation order.

(3) Whether a party has strong ties to Indiana.

(4) Whether a party:

(A) is a citizen of another country;

(B) has strong emotional or cultural ties to the other country; and

(C) has indicated or threatened to take a child out of Indiana to the other country.

(5) Whether a party has friends or family living outside Indiana.

(6) Whether a party does not have a financial reason to stay in Indiana, such as whether the party is unemployed, able to work anywhere, or is financially independent.

(7) Whether a party has engaged in planning that would facilitate removal from Indiana, such as quitting a job, selling the party's primary residence, terminating a lease, closing an account, liquidating other assets, hiding or destroying documents, applying for a passport, applying for a birth certificate, or applying for school or medical records.

(8) Whether a party has a history of marital instability, a lack of parental cooperation, domestic violence, or child abuse.

(9) Whether a party has a criminal record.

After considering evidence, the court shall issue a written determination of security, bond, or other written guarantee supported by findings of fact and conclusions of law.

(b) If a motion for change of judge or change of venue is filed, the court may, before a determination of change of judge or change of venue, consider security, bond, or other guarantee under this chapter.

As added by P.L.171-2001, SEC.12. Amended by P.L.68-2005, SEC.35.

IC 31-17-2-22

Custodial parent's violation of injunction or temporary restraining order considered in custody modification

Sec. 22. An intentional violation by a custodial parent of an injunction or a temporary restraining order issued under IC 31-17-4-4

or IC 31-17-4-5 (or IC 31-1-11.5-26 before its repeal) may be considered a relevant factor under section 8 of this chapter that the court must consider in a proceeding for a custody modification under section 21 of this chapter.
As added by P.L.1-1997, SEC.9.

IC 31-17-2-23
Repealed
(Repealed by P.L.50-2006, SEC.9.)

IC 31-17-2-24
Notice of passport application for child
Sec. 24. (a) If either party to the custody order applies for a passport for the child, the party who applies for the child's passport shall do the following not less than ten (10) days before applying for the child's passport:
(1) File a notice of the passport application with the clerk of the court that issued the custody order.
(2) Send a copy of the notice to the other party.
(b) The parties may jointly agree in writing to waive the requirements of subsection (a).
As added by P.L.1-1997, SEC.9.

IC 31-17-2-25
Petition for emergency placement with person other than noncustodial parent; hearing
Sec. 25. (a) This section applies if a custodial parent or guardian of a child dies or becomes unable to care for the child.
(b) Except as provided in subsection (d), if a person other than a parent files a petition:
(1) seeking to determine custody of the child; or
(2) to modify custody of the child;
that person may request an initial hearing by alleging, as part of the petition, or in a separate petition, the facts and circumstances warranting emergency placement with a person other than the noncustodial parent, pending a final determination of custody.
(c) If a hearing is requested under subsection (b), the court shall set an initial hearing not later than four (4) business days after the petition is filed to determine whether emergency placement of the child with a person other than the child's noncustodial parent should be granted, pending a final determination of custody.
(d) A court is not required to set an initial hearing in accordance with this section if:
(1) it appears from the pleadings that no emergency requiring placement with a person other than the noncustodial parent exists;
(2) it appears from the pleadings that the petitioner does not have a reasonable likelihood of success on the merits; or
(3) manifest injustice would result.
As added by P.L.146-2006, SEC.16.

IC 31-17-2-26

Submissions to the court; court requests for information

Sec. 26. (a) If a person files a petition to establish or modify custody of a child, any person who:

(1) is a party to the custody proceeding; and

(2) has knowledge that:

(A) a party to the custody proceeding has been determined to be a perpetrator of a substantiated report of child abuse or neglect;

(B) the child named in the petition has been the subject of a substantiated report of child abuse or neglect;

(C) the child named in the petition has been determined to be a child in need of services under IC 31-34; or

(D) the child named in the petition has been involved in an informal adjustment under IC 31-34-8;

shall submit to the court in writing under seal that a party to the custody proceeding is a person described in subdivision (2)(A) or the child named in the petition is a child described in subdivision (2)(B), (2)(C), or (2)(D).

(b) A court reviewing a petition to establish or modify custody of a child may request information from the department of child services regarding a petition or proceeding described in subsection (a)(2). The department shall provide a response under seal to the court's request for information not later than ten (10) days after the department receives the court's request for the information.

As added by P.L.239-2013, SEC.4.

IC 31-17-2.2

Chapter 2.2. Relocation

IC 31-17-2.2-1

Notice of intent to move residence; modifying orders; attorney's fees

Sec. 1. (a) A relocating individual must file a notice of the intent to move with the clerk of the court that:

(1) issued the custody order or parenting time order; or

(2) if subdivision (1) does not apply, has jurisdiction over the legal proceedings concerning the custody of or parenting time with a child;

and send a copy of the notice to any nonrelocating individual.

(b) Upon motion of a party, the court shall set the matter for a hearing to review and modify, if appropriate, a custody order, parenting time order, grandparent visitation order, or child support order. The court shall take into account the following in determining whether to modify a custody order, parenting time order, grandparent visitation order, or child support order:

(1) The distance involved in the proposed change of residence.

(2) The hardship and expense involved for the nonrelocating individual to exercise parenting time or grandparent visitation.

(3) The feasibility of preserving the relationship between the nonrelocating individual and the child through suitable parenting time and grandparent visitation arrangements, including consideration of the financial circumstances of the parties.

(4) Whether there is an established pattern of conduct by the relocating individual, including actions by the relocating individual to either promote or thwart a nonrelocating individual's contact with the child.

(5) The reasons provided by the:

(A) relocating individual for seeking relocation; and

(B) nonrelocating parent for opposing the relocation of the child.

(6) Other factors affecting the best interest of the child.

(c) The court may award reasonable attorney's fees for a motion filed under this section in accordance with IC 31-15-10.

As added by P.L.50-2006, SEC.7.

IC 31-17-2.2-2

Initial custody determination

Sec. 2. (a) If a party provides notice of relocation at an initial hearing to determine custody, the court may consider the factors set forth in this chapter in the court's initial custody determination.

(b) The court may consider a proposed relocation of a child as a factor in determining whether to modify a custody order, parenting time order, grandparent visitation order, or child support order.

As added by P.L.50-2006, SEC.7.

IC 31-17-2.2-3
Notice; information requirements

Sec. 3. (a) Except as provided in section 4 of this chapter, an individual required to file a notice under IC 31-14-13-10 or section 1 of this chapter must:

(1) send the notice to each nonrelocating individual:
(A) by registered or certified mail; and
(B) not later than ninety (90) days before the date that the relocating individual intends to move; and

(2) provide the following information in the notice:
(A) The intended new residence, including the:
(i) address; and
(ii) mailing address of the relocating individual, if the mailing address is different than the address under item (i).
(B) The home telephone number of the new residence.
(C) Any other applicable telephone number for the relocating individual.
(D) The date that the relocating individual intends to move.
(E) A brief statement of the specific reasons for the proposed relocation of the child.
(F) A proposal for a revised schedule of parenting time or grandparent visitation with the child.
(G) A statement that a parent must file an objection to the relocation of the child with the court not later than sixty (60) days after receipt of the notice.
(H) A statement that a nonrelocating individual may file a petition to modify a custody order, parenting time order, grandparent visitation order, or child support order.

(b) Except as provided in section 4 of this chapter, if the relocating individual is unable to provide the information required under subsection (a)(2) not later than ninety (90) days before the relocating individual intends to move, the relocating individual shall provide the information in the manner required under subsection (a) not later than ten (10) days after the date that the relocating individual obtains the information required to be provided under subsection (a)(2). However, the relocating individual must provide all the information required under subsection (a)(2) not later than thirty (30) days before the relocating individual intends to move to the new residence.

As added by P.L.50-2006, SEC.7. Amended by P.L.1-2007, SEC.194.

IC 31-17-2.2-4
Risk or harm in disclosing information

Sec. 4. If a court finds that disclosure of the information required under section 3 of this chapter creates a significant risk of substantial harm to the relocating individual or the child, the court may order:

(1) that the address, the telephone number, or other identifying information of the relocating individual or child not be disclosed in the pleadings, other documents filed in the proceeding, or the final order;

(2) that the information required under section 3 of this chapter

be maintained by the clerk of the court in a secure location separate from the pending case file;

(3) that the notice requirements under IC 31-14-13-10 or this chapter be waived to the extent necessary to protect the relocating individual or child from significant risk of substantial harm; or

(4) other remedial action that the court considers necessary to facilitate the legitimate needs of the parties and the best interest of the child.

As added by P.L.50-2006, SEC.7.

IC 31-17-2.2-5

Motion to prevent relocation; burden of proof

Sec. 5. (a) Not later than sixty (60) days after receipt of the notice from the relocating individual under IC 31-14-13-10 or this chapter, a nonrelocating parent may file a motion seeking a temporary or permanent order to prevent the relocation of a child.

(b) On the request of either party, the court shall hold a full evidentiary hearing to grant or deny a relocation motion under subsection (a).

(c) The relocating individual has the burden of proof that the proposed relocation is made in good faith and for a legitimate reason.

(d) If the relocating individual meets the burden of proof under subsection (c), the burden shifts to the nonrelocating parent to show that the proposed relocation is not in the best interest of the child.

(e) If the nonrelocating parent fails to file a motion under subsection (a), the relocating individual who has custody of the child may relocate to the new residence.

As added by P.L.50-2006, SEC.7.

IC 31-17-2.2-6

Temporary order to restrain or permit relocation

Sec. 6. (a) If a nonrelocating parent files a motion under section 5 of this chapter, the court, after notice and an opportunity to be heard or after compliance with Trial Rule 65(B), may grant a temporary order restraining the relocation of a child or order the child to be returned to the nonrelocating parent if the court finds:

(1) that the notice required under IC 31-14-13-10 or this chapter was not served in a timely manner and the parties have not presented an agreement concerning a parenting time schedule;

(2) that the child has been relocated without:

(A) the appropriate notice;

(B) an agreement between the parties; or

(C) a court order; or

(3) from an examination of the evidence presented at the temporary hearing, that there is a likelihood that, after a final hearing, the court will not approve the relocation of the child.

(b) The court may grant a temporary order permitting the relocation of the child pending a final hearing if the court:

(1) determines that the notice required under IC 31-14-13-10 or

this chapter was provided in a timely manner;

(2) issues an order for a revised schedule for temporary parenting time with the child; and

(3) reviews the evidence presented at the temporary hearing and determines that there is a likelihood that, after the final hearing, the court will approve the relocation of the child.

(c) If the court issues a temporary order authorizing the relocating individual to move, in its final judgment, the court must consider factors:

(1) other than; or

(2) in addition to;

the temporary relocation of the child when issuing a final order.

As added by P.L.50-2006, SEC.7.

IC 31-17-2.4
Chapter 2.4. Mediation

IC 31-17-2.4-1
Factors in determination

Sec. 1. Whenever the court issues an order under this article, other than an ex parte order, the court shall determine whether the proceeding should be referred to mediation. In making this determination, the court shall consider:

(1) the ability of the parties to pay for the mediation services; and

(2) whether mediation is appropriate in helping the parties resolve their disputes.

As added by P.L.199-1997, SEC.3.

IC 31-17-2.4-2
Docketing; extension; report

Sec. 2. When a case is ordered to mediation, the case shall be placed on the court docket for final hearing. The mediation process must be completed not later than sixty (60) days after the mediation order is entered. However, the sixty (60) day period may be extended by the court upon the court's own motion, upon agreement of the parties, or upon the recommendation of the mediator, but may not be extended beyond the date set for final hearing. Upon completion of the mediation process, the mediator shall promptly file the mediation report.

As added by P.L.199-1997, SEC.3.

IC 31-17-3
Repealed

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

IC 31-17-3.5

Chapter 3.5. Security to Secure Custody and Parenting Time Orders

IC 31-17-3.5-1

Bonds; requirements

Sec. 1. A bond required under this article to secure enforcement of a custody order or parenting time order must:

(1) be in writing; and

(2) be secured by:

(A) at least one (1) resident freehold surety; or

(B) a commercial insurance company.

As added by P.L.171-2001, SEC.10. Amended by P.L.68-2005, SEC.41.

IC 31-17-3.5-2

Bonds; form

Sec. 2. A bond described in section 1 of this chapter may be prepared in substantially the following form:

STATE OF INDIANA)
) SS:
COUNTY OF _____)
)
)
IN THE MATTER OF:
)
)
Name of Parent (As the Principal)
)
Name of Parent (As the Obligee)
)
)
CHILD:
)
Name of Child
)

KNOW ALL MEN BY THESE PRESENTS, that we _____, as Principal, and _____, as Surety, are held and firmly bound unto _____, as Obligee, in the penal sum of ____ Dollars ($____), for the payment of which well and truly to be made we hereby bind ourselves and our heirs, administrators, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS, an Order was duly made and entered by the above Court in the State of Indiana, County of ____, dated ____, defining custody, parenting time, and support rights regarding the named children.

NOW THEREFORE, the conditions of this obligation are such that:

1. No right of action on this bond shall be granted for the use or benefit of any individual, partnership, corporation, or

other entity, other than the named Obligee.

2. It is agreed that neither this bond nor the obligation of this bond, nor any interest in this bond, may be assigned without the prior express written consent of the Surety.
3. Payment under this bond shall be conditioned upon the Obligee's, or the representative of the Obligee's, filing a motion with the court seeking a declaration of forfeiture of the bond and the Court's finding and entry of a final judgment ordering the Principal and Surety to make such payment. A certified copy of the filing shall be provided to the Surety at its address of record. The Surety shall make payment within thirty (30) days of receiving notification of the final judgment directly to a Trustee appointed by the Court who shall administer the funds in a fiduciary capacity.
4. The Surety shall not be liable hereunder for any amount larger than the face amount of this bond.
5. This bond and the obligation hereunder shall terminate and be of no further effect if the Court order requiring it is modified in any way without the Surety's consent, the Court order expires, or this cause is removed to another jurisdiction.
6. The Surety may file a motion with the Court for discharge of this bond and its obligation hereunder for any good cause. Good cause includes, but is not limited to, misrepresentation or fraud in the initial application for this bond, nonpayment of premium, loss of collateral, or resignation of the Indemnitor. The Surety shall give notice of any such motion to the Obligee.

NOW THEREFORE, if said Principal shall faithfully comply with the requirements and conditions of said Court Order within the limitations and parameters set forth therein, then this Obligation shall be void, otherwise it shall remain in full force and effect.

In witness whereof, each party to this bond has caused it to be executed at the place and on the date indicated below.

Signed, sealed and dated on this ____ day of ____, 20___.

Principal:	Surety:
_____	_____
(Name and address of Principal)	(Name and address of Surety)
_____	_____
(Signature of Principal)	(Countersigned by attorney-in-fact)

(Surety seal)

Witness:

As added by P.L.171-2001, SEC.10. Amended by P.L.68-2005, SEC.42.

IC 31-17-3.5-3

Forfeiture; use of proceeds

Sec. 3. Upon forfeiture, the proceeds of security, a bond, or other guarantee ordered to secure enforcement of a custody order or

parenting time order under this article may only be used to:

(1) reimburse the nonviolating party for actual costs or damages incurred in upholding the court's order;

(2) locate and return the child to the residence as set forth in the court's order; or

(3) reimburse reasonable fees and court costs to the court appointed trustee.

As added by P.L.171-2001, SEC.10. Amended by P.L.68-2005, SEC.43.

IC 31-17-3.5-4

Forfeiture; excess proceeds

Sec. 4. Upon forfeiture, the proceeds of the security, a bond, or other guarantee ordered to secure enforcement of a custody order or parenting time order under this article that are not applied to the expenses described in section 3 of this chapter must be applied toward:

(1) the child's postsecondary education; or

(2) the support and maintenance of the child.

As added by P.L.171-2001, SEC.10. Amended by P.L.68-2005, SEC.44; P.L.2-2007, SEC.363.

IC 31-17-4

Chapter 4. Parenting Time Rights of Noncustodial Parent

IC 31-17-4-1

Parenting time rights; in chambers interview of child

Sec. 1. (a) A parent not granted custody of the child is entitled to reasonable parenting time rights unless the court finds, after a hearing, that parenting time by the noncustodial parent might endanger the child's physical health or significantly impair the child's emotional development.

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

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

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

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

As added by P.L.1-1997, SEC.9. Amended by P.L.15-2004, SEC.2; P.L.68-2005, SEC.45.

IC 31-17-4-2

Modification or denial; restriction of parenting time rights

Sec. 2. The court may modify an order granting or denying parenting time rights whenever modification would serve the best interests of the child. However, the court shall not restrict a parent's parenting time rights unless the court finds that the parenting time might endanger the child's physical health or significantly impair the child's emotional development.

As added by P.L.1-1997, SEC.9. Amended by P.L.68-2005, SEC.46.

IC 31-17-4-2.5

Security, bond, or guarantee

Sec. 2.5. The court may provide in:

(1) a parenting time order; or

(2) a modification to a parenting time order;

for the security, bond, or other guarantee that is satisfactory to the court to secure enforcement of the provisions of the parenting time order.

As added by P.L.171-2001, SEC.13. Amended by P.L.68-2005, SEC.47.

IC 31-17-4-3

Attorney's fees, court costs, and litigation expenses

Sec. 3. (a) In any action filed to enforce or modify an order granting or denying parenting time rights, a court may award:

(1) reasonable attorney's fees;

(2) court costs; and

(3) other reasonable expenses of litigation.

(b) In determining whether to award reasonable attorney's fees, court costs, and other reasonable expenses of litigation, the court may consider among other factors:

(1) whether the petitioner substantially prevailed and whether the court found that the respondent knowingly or intentionally violated an order granting or denying rights; and

(2) whether the respondent substantially prevailed and the court found that the action was frivolous or vexatious.

As added by P.L.1-1997, SEC.9. Amended by P.L.68-2005, SEC.48.

IC 31-17-4-4

Permanent injunction against custodial parent

Sec. 4. A noncustodial parent who:

(1) has been granted parenting time rights with a child who lives with the custodial parent;

(2) regularly pays support ordered by a court for the child; and

(3) is barred by a custodial parent from exercising parenting time rights ordered for the noncustodial parent and the child;

may file, in the court that has jurisdiction over the dissolution of marriage, an application for an injunction against the custodial parent under Rule 65 of the Indiana Rules of Trial Procedure.

As added by P.L.1-1997, SEC.9. Amended by P.L.68-2005, SEC.49.

IC 31-17-4-5

Temporary restraining order against custodial parent

Sec. 5. (a) If an application for an injunction has been filed under section 4 of this chapter (or IC 31-1-11.5-26 before its repeal), the court may grant, without notice, upon affidavit of the noncustodial parent, a temporary restraining order restraining the custodial parent from further violation of the parenting time order.

(b) In the affidavit, the noncustodial parent must state under penalties for perjury that:

(1) the noncustodial parent has been granted parenting time rights with the child; and

(2) the noncustodial parent regularly pays the support ordered by a court for the child.

As added by P.L.1-1997, SEC.9. Amended by P.L.68-2005, SEC.50.

IC 31-17-4-6

Hearing

Sec. 6. A hearing upon the restraining order must be held at the earliest convenience of the court.

As added by P.L.1-1997, SEC.9.

IC 31-17-4-7

Security

Sec. 7. (a) This section does not apply to an order under section 2.5 of this chapter.

(b) A court may not require an applicant for a temporary restraining order or an injunction under section 4 of this chapter (or

IC 31-1-11.5-26 before its repeal) to give security.
As added by P.L.1-1997, SEC.9. Amended by P.L.171-2001, SEC.14.

IC 31-17-4-8
Contempt

Sec. 8. A court that finds an intentional violation without justifiable cause by a custodial parent of an injunction or a temporary restraining order issued under this chapter (or IC 31-1-11.5-26 before its repeal):

(1) shall find the custodial parent in contempt of court;

(2) shall order the exercise of parenting time that was not exercised due to the violation under this section at a time the court considers compatible with the schedules of the noncustodial parent and the child;

(3) may order payment by the custodial parent of reasonable attorney's fees, costs, and expenses to the noncustodial parent; and

(4) may order the custodial parent to perform community restitution or service without compensation in a manner specified by the court.

As added by P.L.1-1997, SEC.9. Amended by P.L.32-2000, SEC.19; P.L.68-2005, SEC.51.

IC 31-17-4-9
Additional remedies

Sec. 9. The remedies in this chapter are in addition to and do not limit other civil or criminal remedies available to the noncustodial parent.
As added by P.L.1-1997, SEC.9.

IC 31-17-4-10
Missed parenting time; parent in military

Sec. 10. A noncustodial parent who misses parenting time as the result of participation in an activity of:

(1) the Indiana National Guard; or

(2) a reserve component of the armed forces of the United States;

may make up the lost parenting time as provided in IC 10-16-7-22.
As added by P.L.103-1997, SEC.4. Amended by P.L.2-2003, SEC.72; P.L.68-2005, SEC.52.

IC 31-17-4-11
Submissions to the court; court requests for information

Sec. 11. (a) If a person files a petition to establish or modify parenting time with a child, any person who:

(1) is a party to the parenting time proceeding; and

(2) has knowledge that:

(A) a party to the parenting time proceeding has been determined to be a perpetrator of a substantiated report of child abuse or neglect;

(B) the child named in the petition has been the subject of a substantiated report of child abuse or neglect;

(C) the child named in the petition has been determined to be a child in need of services under IC 31-34; or

(D) the child named in the petition has been involved in an informal adjustment under IC 31-34-8;

shall submit to the court in writing under seal that a party to the parenting time proceeding is a person described in subdivision (2)(A) or the child named in the petition is a child described in subdivision (2)(B), (2)(C), or (2)(D).

(b) A court reviewing a petition to establish or modify parenting time of a child may request information from the department of child services regarding a petition or proceeding described in subsection (a)(2). The department shall provide a response under seal to the court's request for information not later than ten (10) days after the department receives the court's request for the information.

As added by P.L.239-2013, SEC.5.

IC 31-17-5

Chapter 5. Grandparent's Visitation

IC 31-17-5-0.2

Application of certain amendments to prior law

Sec. 0.2. The amendments made to IC 31-1-11.7-2 (before its repeal, now codified at sections 1, 8, 9, and 10 of this chapter) by P.L.293-1987 apply to the visitation rights of grandparents who have been granted visitation rights before September 1, 1985.

As added by P.L.220-2011, SEC.502.

IC 31-17-5-0.3

Application of certain amendments to prior law

Sec. 0.3. The amendments made to IC 31-1-11.7-2, IC 31-1-11.7-3, and IC 31-1-11.7-6 (before their repeal, now codified in this chapter) by P.L.270-1989 apply to adoptions in which a final order is issued by a trial court after May 5, 1989.

As added by P.L.220-2011, SEC.503.

IC 31-17-5-1

Right to seek visitation

Sec. 1. (a) A child's grandparent may seek visitation rights if:

(1) the child's parent is deceased;

(2) the marriage of the child's parents has been dissolved in Indiana; or

(3) subject to subsection (b), the child was born out of wedlock.

(b) A court may not grant visitation rights to a paternal grandparent of a child who is born out of wedlock under subsection (a)(3) if the child's father has not established paternity in relation to the child.

As added by P.L.1-1997, SEC.9.

IC 31-17-5-2

Best interest of the child; in chambers interview of the child

Sec. 2. (a) The court may grant visitation rights if the court determines that visitation rights are in the best interests of the child.

(b) In determining the best interests of the child under this section, the court may consider whether a grandparent has had or has attempted to have meaningful contact with the child.

(c) The court may interview the child in chambers to assist the court in determining the child's perception of whether visitation by a grandparent is in the best interests of the child.

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

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

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

As added by P.L.1-1997, SEC.9. Amended by P.L.15-2004, SEC.3.

IC 31-17-5-3

Petition

Sec. 3. A proceeding for grandparent's visitation must be commenced by the filing of a petition entitled, "In Re the visitation of _____". The petition must:

(1) be filed by a grandparent entitled to receive visitation rights under this chapter;

(2) be verified; and

(3) set forth the following:

(A) The names and relationship of:

(i) the petitioning grandparent or grandparents;

(ii) each child with whom visitation is sought; and

(iii) the custodial parent or guardian of each child.

(B) The present address of each person named in clause (A).

(C) The date of birth of each child with whom visitation is sought.

(D) The status under section 1 of this chapter upon which the grandparent seeks visitation.

(E) The relief sought.

As added by P.L.1-1997, SEC.9.

IC 31-17-5-4

Venue

Sec. 4. A grandparent seeking visitation rights shall file a petition requesting reasonable visitation rights:

(1) in a circuit, superior or probate court of the county in which the child resides in a case described in section 1(a)(1), 1(a)(3), or 10 of this chapter; or

(2) in the court having jurisdiction over the dissolution of the parents' marriage in a case described in section 1(a)(2) of this chapter.

As added by P.L.1-1997, SEC.9. Amended by P.L.50-2006, SEC.8.

IC 31-17-5-5

Service of petition and summons

Sec. 5. Whenever a petition is filed, a copy of the petition, together with a copy of a summons, shall be served upon the custodial and noncustodial parent or guardian of each child with whom visitation is sought in the same manner as service of summons in civil actions generally.

As added by P.L.1-1997, SEC.9.

IC 31-17-5-6

Decree

Sec. 6. Upon hearing evidence in support of and opposition to a petition filed under this chapter, the court shall enter a decree setting forth the court's findings and conclusions.

As added by P.L.1-1997, SEC.9.

IC 31-17-5-7

Modification of order

Sec. 7. The court may modify an order granting or denying visitation rights whenever modification would serve the best interests of the child.
As added by P.L.1-1997, SEC.9.

IC 31-17-5-8
Paternity proceedings; effect on visitation rights

Sec. 8. (a) This section applies to a child born out of wedlock.

(b) Visitation rights provided for in section 1 or 10 of this chapter survive the establishment of paternity of a child by a court proceeding other than an adoption proceeding.
As added by P.L.1-1997, SEC.9.

IC 31-17-5-9
Adoption; effect on visitation rights

Sec. 9. Visitation rights provided for in section 1 or 10 of this chapter survive the adoption of the child by any of the following:

(1) A stepparent.
(2) A person who is biologically related to the child as:
  (A) a grandparent;
  (B) a sibling;
  (C) an aunt;
  (D) an uncle;
  (E) a niece; or
  (F) a nephew.

As added by P.L.1-1997, SEC.9.

IC 31-17-5-10
Marriage of child's parents dissolved in another state; right to seek visitation

Sec. 10. If the marriage of the child's parents has been dissolved in another state, the child's maternal or paternal grandparent may seek visitation rights if:

(1) the custody decree entered in the action for dissolution of marriage does not bind the grandparent under IC 31-21-3-1 (or IC 31-17-3-12 before its repeal); and
(2) an Indiana court would have jurisdiction under IC 31-21-5-1 (or IC 31-17-3-3 before its repeal), IC 31-21-5-2, or IC 31-21-5-3 (or IC 31-17-3-14 before its repeal) to grant visitation rights to the grandparent in a modification decree.

As added by P.L.1-1997, SEC.9. Amended by P.L.138-2007, SEC.35.

IC 31-17-6

Chapter 6. Appointment of Guardians Ad Litem and Court Appointed Special Advocates

IC 31-17-6-1

Appointment

Sec. 1. A court, in a proceeding under IC 31-17-2, IC 31-17-4, this chapter, IC 31-17-7, or IC 31-28-5, may appoint a guardian ad litem, a court appointed special advocate, or both, for a child at any time.

As added by P.L.1-1997, SEC.9. Amended by P.L.133-2008, SEC.9.

IC 31-17-6-2

Persons ineligible for appointment

Sec. 2. A court may not appoint a party to the proceedings, the party's employee, or the party's representative as the:

(1) guardian ad litem;
(2) court appointed special advocate;
(3) guardian ad litem program; or
(4) court appointed special advocate program;

for a child who is involved in the proceedings.

As added by P.L.1-1997, SEC.9.

IC 31-17-6-3

Protection of best interests of child; term of appointment

Sec. 3. A guardian ad litem or court appointed special advocate shall represent and protect the best interests of the child. A guardian ad litem or court appointed special advocate serves until the court enters an order for removal.

As added by P.L.1-1997, SEC.9.

IC 31-17-6-4

Officers of the court

Sec. 4. The guardian ad litem or the court appointed special advocate, or both, are considered officers of the court for the purpose of representing the child's interests.

As added by P.L.1-1997, SEC.9.

IC 31-17-6-5

Representation by attorney

Sec. 5. The guardian ad litem or the court appointed special advocate may be represented by an attorney. If necessary to protect the child's interests, the court may appoint an attorney to represent the guardian ad litem or the court appointed special advocate.

As added by P.L.1-1997, SEC.9.

IC 31-17-6-6

Subpoena powers; presentation of evidence

Sec. 6. A guardian ad litem or court appointed special advocate appointed by a court under this chapter may subpoena witnesses and present evidence regarding:

(1) the supervision of the action; or
(2) any investigation and report that the court requires of the guardian ad litem or court appointed special advocate.

As added by P.L.1-1997, SEC.9.

IC 31-17-6-7
Continuing supervision

Sec. 7. The court may order a guardian ad litem or court appointed special advocate appointed by a court under this chapter (or IC 31-1-11.5-28 before its repeal) to exercise continuing supervision over the child to assure that the custodial or parenting time terms of an order entered by the court under IC 31-17-2 or IC 31-17-4 (or IC 31-1-11.5 before its repeal) are carried out as required by the court.

As added by P.L.1-1997, SEC.9. Amended by P.L.68-2005, SEC.53.

IC 31-17-6-8
Civil immunity

Sec. 8. Except for gross misconduct:
(1) a guardian ad litem;
(2) a court appointed special advocate;
(3) an employee of a county guardian ad litem or court appointed special advocate program; or
(4) a volunteer for a guardian ad litem or court appointed special advocate program;

who performs duties in good faith is immune from any civil liability that may occur as a result of the person's performance.

As added by P.L.1-1997, SEC.9.

IC 31-17-6-9
User fee; funds

Sec. 9. (a) The court may order either or both parents of a child for whom a guardian ad litem or court appointed special advocate is appointed under this chapter to pay a user fee for the services provided under this chapter. The court shall establish one (1) of the following procedures to be used to collect the user fee:
(1) The court may order the clerk of the court to collect the user fee and deposit the user fee into the county's guardian ad litem fund or court appointed special advocate fund. The fiscal body of the county shall appropriate money collected as user fees under this chapter to the court having jurisdiction over custody actions for the court's use in providing guardian ad litem or court appointed special advocate services, including the costs of representation.
(2) The court may order either or both parents to pay the user fee to the:
(A) guardian ad litem program that provided the services; or
(B) court appointed special advocate program that provided the services.
(3) The court may order either or both parents to pay the user

fee to the individual or attorney guardian ad litem that provided the services.

(b) Money remaining in a county's:

(1) guardian ad litem fund; or

(2) court appointed special advocate fund;

at the end of the county's fiscal year does not revert to any other fund.

(c) If the court orders either or both parents to pay the user fee according to subsection (a)(2) or (a)(3) the program or the individual or attorney guardian ad litem shall report to the court the receipt of payment not later than thirty (30) days after receiving the payment.

As added by P.L.1-1997, SEC.9.

IC 31-17-7

Chapter 7. Costs and Attorney's Fees

IC 31-17-7-1

Costs and attorney's fees; order for direct payment to attorney

Sec. 1. (a) The court periodically may order a party to pay a reasonable amount for the cost to the other party of maintaining or defending any proceeding under IC 31-17-2, IC 31-17-4, IC 31-17-6, or this chapter and for attorney's fees and mediation services, including amounts for legal services provided and costs incurred before the commencement of the proceedings or after entry of judgment.

(b) The court may order the amount to be paid directly to the attorney, who may enforce the order in the attorney's name.

As added by P.L.1-1997, SEC.9. Amended by P.L.199-1997, SEC.6.

IC 31-17-7-2

Exemption for agencies

Sec. 2. Neither costs nor attorney's fees may be taxed against an agency or its agents that is authorized to maintain proceedings under IC 31-17-2, IC 31-17-4, IC 31-17-6, or this chapter by Title IV-D of the federal Social Security Act (42 U.S.C. 651 through 669) and IC 31-25-4-17.

As added by P.L.1-1997, SEC.9. Amended by P.L.145-2006, SEC.241.

IC 31-18

ARTICLE 18. FAMILY LAW: UNIFORM INTERSTATE FAMILY SUPPORT ACT

IC 31-18-1

Chapter 1. Definitions

IC 31-18-1-1

Application of definitions

Sec. 1. The definitions in this chapter apply throughout this article.

As added by P.L.1-1997, SEC.10.

IC 31-18-1-2

"Child"

Sec. 2. "Child" means an individual who is:

(1) owed or alleged to be owed a duty of support by the individual's parent; or

(2) the beneficiary of a support order directed to the parent.

The term includes a child who is over the age of majority.

As added by P.L.1-1997, SEC.10. Amended by P.L.97-2004, SEC.107.

IC 31-18-1-3

"Child support order"

Sec. 3. "Child support order" means a support order for a child, including a child who has attained the age of majority under the law of the issuing state.

As added by P.L.1-1997, SEC.10.

IC 31-18-1-4

"Duty of support"

Sec. 4. "Duty of support" means an obligation imposed or that may be imposed by law to provide support for a child, spouse, or former spouse, including an unsatisfied obligation to provide support.

As added by P.L.1-1997, SEC.10.

IC 31-18-1-5

"Home state"

Sec. 5. "Home state" means:

(1) the state in which a child lived with a parent or a person acting as parent for at least six (6) consecutive months immediately preceding the time of filing of a petition or comparable pleading for support; and

(2) if a child is less than six (6) months of age, the state in which the child lived since birth with a parent or person acting as a parent.

A period of temporary absence of the child, parent, or person acting as a parent is included as part of the six (6) month period under subdivision (1) or other period under subdivision (2).

As added by P.L.1-1997, SEC.10.

IC 31-18-1-6
"Income"
Sec. 6. "Income" means anything of value owed to an obligor.
As added by P.L.1-1997, SEC.10.

IC 31-18-1-7
"Income payor"
Sec. 7. "Income payor" means an employer or other person who owes income to an obligor.
As added by P.L.1-1997, SEC.10.

IC 31-18-1-8
"Income withholding order"
Sec. 8. "Income withholding order" means an order or other legal process directed to an obligor's income payor to withhold:
(1) support; and
(2) support fees and maintenance fees as described in IC 33-37-5-6;
from the income of the obligor.
As added by P.L.1-1997, SEC.10. Amended by P.L.148-2006, SEC.29.

IC 31-18-1-9
"Initiating state"
Sec. 9. "Initiating state" means a state in which a proceeding is forwarded or in which a proceeding is filed for forwarding to a responding state under:
(1) this article or a law substantially similar to this article;
(2) the Uniform Reciprocal Enforcement of Support Act; or
(3) the Revised Uniform Reciprocal Enforcement of Support Act.
As added by P.L.1-1997, SEC.10. Amended by P.L.213-1999, SEC.12.

IC 31-18-1-10
"Initiating tribunal"
Sec. 10. "Initiating tribunal" means the authorized tribunal in an initiating state.
As added by P.L.1-1997, SEC.10.

IC 31-18-1-11
"Issuing state"
Sec. 11. "Issuing state" means the state in which a tribunal issues a support order or enters a judgment of paternity.
As added by P.L.1-1997, SEC.10.

IC 31-18-1-12
"Issuing tribunal"
Sec. 12. "Issuing tribunal" means the tribunal that issues a support order or enters a judgment of paternity.

As added by P.L.1-1997, SEC.10.

IC 31-18-1-13
"Law"

Sec. 13. "Law" includes decisional and statutory law and rules and regulations having the force of law.
As added by P.L.1-1997, SEC.10.

IC 31-18-1-14
"Obligee"

Sec. 14. "Obligee" means:

(1) an individual to whom a duty of support is owed or is alleged to be owed or in whose favor a:

(A) support order has been issued; or

(B) judgment determining paternity has been entered;

(2) a state or political subdivision to which the rights under a duty of support or support order have been assigned or that has independent claims based on financial assistance provided to an individual obligee; or

(3) an individual seeking a judgment to establish paternity of the individual's child.

As added by P.L.1-1997, SEC.10. Amended by P.L.213-1999, SEC.13.

IC 31-18-1-15
"Obligor"

Sec. 15. "Obligor" means an individual or the estate of a decedent who:

(1) owes or is alleged to owe a duty of support;

(2) is alleged to be, but has not been adjudicated to be, a parent of a child; or

(3) is liable under a support order.

As added by P.L.1-1997, SEC.10. Amended by P.L.213-1999, SEC.14.

IC 31-18-1-16
"Register"

Sec. 16. "Register" means to record a:

(1) support order; or

(2) judgment determining paternity;

in the appropriate location for the recording or filing of foreign judgments generally or foreign support orders specifically.
As added by P.L.1-1997, SEC.10.

IC 31-18-1-17
"Registering tribunal"

Sec. 17. "Registering tribunal" means a tribunal in which a support order is registered.
As added by P.L.1-1997, SEC.10.

IC 31-18-1-18
"Responding state"

Sec. 18. "Responding state" means a state to which a proceeding is filed or to which a proceeding is forwarded for filing from an initiating state under:

(1) this article or a law substantially similar to this article;
(2) the Uniform Reciprocal Enforcement of Support Act; or
(3) the Revised Uniform Reciprocal Enforcement of Support Act.

As added by P.L.1-1997, SEC.10. Amended by P.L.213-1999, SEC.15.

IC 31-18-1-19
"Responding tribunal"

Sec. 19. "Responding tribunal" means the authorized tribunal in a responding state.

As added by P.L.1-1997, SEC.10.

IC 31-18-1-20
"Spousal support order"

Sec. 20. "Spousal support order" means a support order for a spouse or former spouse of the obligor.

As added by P.L.1-1997, SEC.10.

IC 31-18-1-21
"State"

Sec. 21. "State" means:

(1) a state of the United States;
(2) the District of Columbia;
(3) the Commonwealth of Puerto Rico; or
(4) any territory or insular possession subject to the jurisdiction of the United States.

The term includes an Indian tribe and a foreign jurisdiction that have enacted a law or established procedures for issuing and enforcing support orders that are substantially similar to the procedures under this article or the procedures under the Uniform Reciprocal Enforcement of Support Act or the Revised Uniform Reciprocal Enforcement of Support Act.

As added by P.L.1-1997, SEC.10. Amended by P.L.213-1999, SEC.16.

IC 31-18-1-22
Repealed

(Repealed by P.L.213-1999, SEC.33.)

IC 31-18-1-23
"Support enforcement agency"

Sec. 23. "Support enforcement agency" means a public official or an agency authorized to seek to:

(1) enforce a support order or laws regarding the duty of

support;
(2) establish or modify child support;
(3) establish paternity; or
(4) locate an obligor or the obligor's assets.
As added by P.L.1-1997, SEC.10.

IC 31-18-1-24
"Support order"
Sec. 24. "Support order" means a judgment, a decree, or an order, whether:
(1) temporary;
(2) final; or
(3) subject to modification;
for the benefit of a child, a spouse, or a former spouse, which provides for monetary support, health care, arrearages, or reimbursement, and may include related costs and fees, interest, income withholding, attorney's fees, and other relief.
As added by P.L.1-1997, SEC.10.

IC 31-18-1-25
"Tribunal"
Sec. 25. "Tribunal" means a court, an administrative agency, or a quasi-judicial entity authorized to establish, enforce, or modify support orders or to determine paternity. In referring to an Indiana tribunal acting as an authorized responding court under this article, the term means a court that is authorized to establish, enforce, or modify support orders or establish paternity but does not include an administrative agency or a quasi-judicial entity.
As added by P.L.1-1997, SEC.10. Amended by P.L.213-1999, SEC.17.

IC 31-18-2

Chapter 2. Jurisdiction

IC 31-18-2-1

Basis for jurisdiction over nonresident

Sec. 1. In a proceeding to establish, enforce, or modify a support order or to determine paternity, an Indiana tribunal may exercise personal jurisdiction over a nonresident individual or the individual's guardian or conservator if:

(1) the individual is personally served with notice in Indiana;

(2) the individual submits to the jurisdiction of Indiana by:

(A) consent;

(B) entering an appearance, except for the purpose of contesting jurisdiction; or

(C) filing a responsive document having the effect of waiving contest to personal jurisdiction;

(3) the individual resided in Indiana with the child;

(4) the individual resided in Indiana and has provided prenatal expenses or support for the child;

(5) the child resides in Indiana as a result of the acts or directives of the individual;

(6) the individual engaged in sexual intercourse in Indiana and the child:

(A) has been conceived by the act of intercourse; or

(B) may have been conceived by the act of intercourse if the proceeding is to establish paternity;

(7) the individual asserted paternity of the child in the putative father registry administered by the state department of health under IC 31-19-5; or

(8) there is any other basis consistent with the Constitution of the State of Indiana and the Constitution of the United States for the exercise of personal jurisdiction.

As added by P.L.1-1997, SEC.10.

IC 31-18-2-2

Procedure when exercising jurisdiction over nonresident

Sec. 2. An Indiana tribunal exercising personal jurisdiction over a nonresident under section 1 of this chapter may apply:

(1) IC 31-18-3-16 to receive evidence from another state (special rules of evidence established by this article regarding long arm jurisdiction cases); and

(2) IC 31-18-3-18 to obtain discovery assistance through a tribunal of another state (special rules of procedure established by this article for obtaining discovery in long arm jurisdiction cases). In all other respects, the tribunal shall apply the procedural and substantive law of Indiana, including the rules on choice of law other than those established by this article.

As added by P.L.1-1997, SEC.10.

IC 31-18-2-3

Initiating and responding tribunals

Sec. 3. An Indiana tribunal may serve as:

(1) an initiating tribunal under this article to forward proceedings to another state; and

(2) a responding tribunal for proceedings initiated in another state.

As added by P.L.1-1997, SEC.10.

IC 31-18-2-4

Simultaneous proceedings in another state

Sec. 4. (a) An Indiana tribunal may exercise jurisdiction to establish a support order if the petition is filed after a petition or comparable pleading is filed in another state only if:

(1) the petition is filed in Indiana before the expiration of the time allowed in the other state for filing a responsive pleading challenging the exercise of jurisdiction by the other state;

(2) the contesting party timely challenges the exercise of jurisdiction in the other state; and

(3) Indiana is the home state of the child, if relevant.

(b) An Indiana tribunal may not exercise jurisdiction to establish a support order if the petition is filed before a petition or comparable pleading is filed in another state if:

(1) the petition or comparable pleading in the other state is filed before the expiration of the time allowed in Indiana for filing a responsive pleading challenging the exercise of jurisdiction by Indiana;

(2) the contesting party timely challenges the exercise of jurisdiction in Indiana; and

(3) the other state is the home state of the child, if relevant.

As added by P.L.1-1997, SEC.10.

IC 31-18-2-5

Continuing exclusive jurisdiction

Sec. 5. (a) An Indiana tribunal that issues a support order consistent with Indiana law has continuing, exclusive jurisdiction over a child support order:

(1) if Indiana remains the residence of the:

(A) obligor;

(B) individual obligee; or

(C) child for whose benefit the support order is issued; or

(2) until each individual party has filed written consent with the Indiana tribunal for a tribunal of another state to modify the order and assume continuing, exclusive jurisdiction.

Nothing in this section is intended to divest a court of jurisdiction to enforce a judgment that has been previously issued in favor of any party, including any state or to prevent a Title IV-D agency or its agents from collecting on a judgment previously issued through a judicial or an administrative proceeding.

(b) An Indiana tribunal that issues a child support order consistent with Indiana law may not exercise its continuing jurisdiction to

modify the order if the order has been modified by a tribunal of another state that has exercised continuing, exclusive jurisdiction over the order under a law substantially similar to this article.

(c) If an Indiana child support order is modified by a tribunal of another state under a law substantially similar to this article, the Indiana tribunal:

(1) loses its continuing, exclusive jurisdiction with regard to prospective enforcement of the order issued in Indiana; and

(2) may only:

(1) Enforce the order that was modified concerning amounts accruing before the modification.

(2) Enforce nonmodifiable aspects of that order.

(3) Provide other appropriate relief for a violation of the order that occurred before the effective date of the modification.

(4) Recognize the modifying order of the other state, upon registration, for the purpose of enforcement.

(d) An Indiana tribunal shall recognize the continuing, exclusive jurisdiction of a tribunal of another state that has issued a child support order under a law substantially similar to this article.

(e) A temporary support order issued ex parte or a pending resolution of a jurisdictional conflict does not create continuing, exclusive jurisdiction in the issuing tribunal.

(f) An Indiana tribunal that issues a support order consistent with Indiana law has continuing, exclusive jurisdiction over a spousal support order throughout the existence of the support obligation. An Indiana tribunal may not modify a spousal support order issued by a tribunal of another state having continuing, exclusive jurisdiction over the order under the law of the other state.

As added by P.L.1-1997, SEC.10.

IC 31-18-2-6

Enforcement and modification of support order by tribunal having continuing jurisdiction

Sec. 6. (a) An Indiana tribunal may serve as an initiating tribunal to request a tribunal of another state to enforce or modify a support order issued in that other state.

(b) An Indiana tribunal having continuing, exclusive jurisdiction over a support order may act as a responding tribunal to enforce or modify the order. If a party subject to the continuing, exclusive jurisdiction of the tribunal no longer resides in the issuing state, in subsequent proceedings the tribunal may apply:

(1) IC 31-18-3-16 regarding receiving evidence from another state; and

(2) IC 31-18-3-18 regarding obtaining discovery through a tribunal of another state.

(c) An Indiana tribunal that lacks continuing, exclusive jurisdiction over a spousal support order may not serve as a responding tribunal to modify a spousal support order of another state.

As added by P.L.1-1997, SEC.10.

IC 31-18-2-7
Recognition of child support orders

Sec. 7. (a) If a proceeding is brought under this article and one (1) or more child support orders have been issued in Indiana or another state with regard to an obligor and a child, an Indiana tribunal shall apply the following rules in determining which order to recognize for purposes of continuing, exclusive jurisdiction:

(1) If only one (1) tribunal has issued a child support order, the order of that tribunal is controlling and must be recognized.

(2) If two (2) or more tribunals have issued child support orders for the same obligor and child, and only one (1) of the tribunals has continuing, exclusive jurisdiction in accordance with this article, the order of that tribunal is controlling and must be recognized.

(3) If two (2) or more tribunals have issued child support orders for the same obligor and child, and more than one (1) of the tribunals has continuing, exclusive jurisdiction in accordance with this article, an order issued by a tribunal in the current home state of the child must be recognized. However, if an order has not been issued in the current home state of the child, the order most recently issued must be recognized.

(4) If two (2) or more tribunals have issued child support orders for the same obligor and child, and none of the tribunals has continuing, exclusive jurisdiction in accordance with this article, the Indiana tribunal shall issue a child support order that is controlling and must be recognized.

(b) The tribunal that has issued an order recognized under subsection (a) is the tribunal having continuing, exclusive jurisdiction.

(c) If two (2) or more child support orders have been issued for the same obligor and child and if the obligor or the individual obligee resides in Indiana, a party may request an Indiana tribunal to determine which order controls and must be recognized under subsection (a). The request must be accompanied by a certified copy of all support orders in effect. Each party whose rights may be affected by a determination of the controlling order must be given notice of the request for that determination.

As added by P.L.1-1997, SEC.10. Amended by P.L.213-1999, SEC.18.

IC 31-18-2-7.5
Determination of identity of controlling child support order

Sec. 7.5. (a) An Indiana tribunal that:

(1) determines by order the identity of the controlling child support order under section 7(a)(1), 7(a)(2), or 7(a)(3) of this chapter; or

(2) issues a new controlling child support order under section 7(a)(4) of this chapter;

shall include in that order the basis upon which the tribunal made the determination.

(b) Not later than thirty (30) days after issuance of the order determining the identity of the controlling order, the party obtaining the order shall file a certified copy of the order with each tribunal that has issued or registered an earlier order of child support. Failure of the party obtaining the order to file a certified copy as required subjects the party to appropriate sanctions by a tribunal in which the issue of failure to file arises. However, the failure has no effect on the validity or enforceability of the controlling order.

As added by P.L.213-1999, SEC.19.

IC 31-18-2-8

Multiple child support orders for two or more obligees

Sec. 8. In responding to multiple registrations or petitions for enforcement of two (2) or more child support orders in effect at the same time regarding:

(1) the same obligor; and

(2) different individual obligees;

at least one (1) of which was issued by a tribunal of another state, an Indiana tribunal shall enforce the orders in the same manner as if the multiple orders had been issued by an Indiana tribunal.

As added by P.L.1-1997, SEC.10.

IC 31-18-2-9

Credit for payments

Sec. 9. Amounts collected and credited for a period as the result of a support order issued by a tribunal of another state must be credited against the amounts accruing or accrued for the same period under a support order issued by an Indiana tribunal.

As added by P.L.1-1997, SEC.10.

IC 31-18-2-10

Authority to transfer and initiate petition to responding jurisdiction

Sec. 10. For purposes of this article, the Title IV-D agency or its agents have the authority to transfer and initiate a petition to a responding jurisdiction.

As added by P.L.1-1997, SEC.10.

IC 31-18-3

Chapter 3. Civil Provisions of General Application

IC 31-18-3-1

Proceedings under this article

Sec. 1. (a) Except as otherwise provided in this article, this chapter applies to all proceedings under this article.

(b) this article provides for the following proceedings:

(1) Establishment of an order for spousal support or child support under IC 31-18-4.

(2) Enforcement of a support order and an income withholding order of another state without registration under IC 31-18-5.

(3) Registration of an order for spousal support or child support of another state for enforcement under IC 31-18-6.

(4) Modification of an order for child support or spousal support issued by an Indiana tribunal under IC 31-18-2.

(5) Registration of an order for child support of another state for modification under IC 31-18-6.

(6) Determination of paternity under IC 31-18-7.

(7) Assertion of jurisdiction over nonresidents under IC 31-18-2.

(c) An individual petitioner or a support enforcement agency may commence a proceeding authorized under this article by filing a petition or comparable pleading in:

(1) an initiating tribunal for forwarding to a responding tribunal; or

(2) a tribunal of another state that has or is able to obtain personal jurisdiction over the respondent.

As added by P.L.1-1997, SEC.10.

IC 31-18-3-2

Action by minor parent

Sec. 2. A parent who is less than eighteen (18) years of age or a guardian or other legal representative of the minor parent may maintain a proceeding:

(1) on behalf of; or

(2) for the benefit of;

the minor parent's child.

As added by P.L.1-1997, SEC.10.

IC 31-18-3-3

Application of law of this state

Sec. 3. Except as otherwise provided by this article, a responding Indiana tribunal:

(1) shall apply the procedural and substantive law, including the rules on choice of law, generally applicable to similar proceedings originating in Indiana and:

(A) may exercise all powers; and

(B) provide all remedies;

available in the proceedings; and

(2) shall determine the duty of support and the amount payable under the child support guidelines adopted by the Indiana supreme court and any other relevant Indiana law.

As added by P.L.1-1997, SEC.10.

IC 31-18-3-4

Duties of initiating tribunal

Sec. 4. (a) Upon the filing of a petition authorized by this article, an initiating Indiana tribunal shall forward three (3) copies of the petition and its accompanying documents to:

(1) the responding tribunal; or

(2) an appropriate support enforcement agency in the responding state.

However, if the identity of the responding tribunal is unknown, the copies must be forwarded to the state information agency of the responding state with a request for the copies to be forwarded to the appropriate tribunal and for receipt to be acknowledged.

(b) If a responding state has not enacted the Uniform Interstate Family Support Act or a law or procedure substantially similar to the Uniform Interstate Family Support Act, an Indiana tribunal may issue a certificate or other documents and make findings required by the law of the responding state. If the responding state is a foreign jurisdiction, the tribunal may specify the amount of support sought and provide other documents necessary to satisfy the requirements of the responding state.

As added by P.L.1-1997, SEC.10. Amended by P.L.213-1999, SEC.20.

IC 31-18-3-5

Duties and powers of responding tribunal

Sec. 5. (a) When a responding Indiana tribunal receives a petition or comparable pleading from an initiating tribunal or directly under section 1(c) of this chapter, the responding tribunal shall:

(1) file the petition or pleading; and

(2) notify the petitioner by first class mail of the location and date that the petition or comparable pleading was filed.

(b) A responding Indiana tribunal, to the extent otherwise authorized by law, may do one (1) or more of the following:

(1) Issue or enforce a support order, modify a child support order, or enter a judgment to establish paternity.

(2) Order an obligor to comply with a support order, specifying the amount and the manner of compliance.

(3) Order income withholding.

(4) Determine the amount of any arrearages and specify a method of payment.

(5) Enforce orders by civil or criminal contempt, or both.

(6) Set aside property for satisfaction of the support order.

(7) Place liens and order execution on the obligor's property.

(8) Order an obligor to keep a tribunal informed of the obligor's current:

(A) residential address;
(B) telephone number;
(C) income payor;
(D) address of employment; and
(E) telephone number at the place of employment.

(9) Issue a bench warrant or body attachment for an obligor who has failed after proper notice to appear at a hearing ordered by the tribunal, and enter the bench warrant in any local and state computer systems for criminal warrants.

(10) Order the obligor to seek appropriate employment by specified methods.

(11) Award reasonable attorney's fees and other fees and costs.

(12) As appropriate, grant any other available remedy under federal or state law.

(c) A responding Indiana tribunal shall include in:

(1) a support order issued under this article; or

(2) the documents accompanying the order;

the calculations upon which the support order is based.

(d) A responding Indiana tribunal may not condition the payment of a support order issued under this article upon a party's compliance with provisions for parenting time.

(e) If a responding Indiana tribunal issues an order under this article, the Indiana tribunal shall send a copy of the order by first class mail to the:

(1) petitioner;

(2) respondent; and

(3) initiating tribunal, if any.

As added by P.L.1-1997, SEC.10. Amended by P.L.68-2005, SEC.54.

IC 31-18-3-6
Inappropriate tribunal

Sec. 6. If a petition or comparable pleading is received by an inappropriate Indiana tribunal, the inappropriate tribunal shall:

(1) forward the pleading and accompanying documents to an appropriate tribunal in Indiana or another state; and

(2) notify the initiating state by first class mail regarding the date and location that the pleading was sent. Whenever the inappropriate tribunal is unable to identify the appropriate tribunal under this section, the inappropriate tribunal shall return the pleading and accompanying documents to the initiating state.

As added by P.L.1-1997, SEC.10.

IC 31-18-3-7
Duties of Title IV-D agency

Sec. 7. (a) An Indiana Title IV-D agency, upon request, shall provide services to a petitioner who is an obligee in a proceeding under this article.

(b) A Title IV-D agency, or its agents, that is providing services to the petitioner under this article shall:

(1) take the steps necessary to enable an appropriate Indiana tribunal or another state to obtain jurisdiction over the respondent;
(2) request an appropriate tribunal to set a date, time, and place for a hearing;
(3) make a reasonable effort to obtain all relevant information, including information regarding income and property of the parties;
(4) not later than ten (10) days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of a written notice from an initiating, a responding, or a registering tribunal, send a copy of the notice by first class mail to the petitioner;
(5) not later than ten (10) days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of a written communication from the respondent or the respondent's attorney, send a copy of the communication by first class mail to the petitioner; and
(6) notify the petitioner if jurisdiction over the respondent may not be obtained.

(c) This article does not create or negate:
(1) an attorney-client; or
(2) other fiduciary;

relationship between an attorney for either the Title IV-D agency or its agents and the individual being assisted.
As added by P.L.1-1997, SEC.10. Amended by P.L.213-1999, SEC.21.

IC 31-18-3-8
Neglect or refusal to provide services by Title IV-D agency

Sec. 8. If the department determines that an agent of the Title IV-D agency is neglecting or refusing to provide services to an individual, the department may:
(1) direct the agent to perform duties of the agent under this article; or
(2) provide the services directly to the individual.

As added by P.L.1-1997, SEC.10. Amended by P.L.145-2006, SEC.242.

IC 31-18-3-9
Private counsel

Sec. 9. An individual may employ private counsel to represent the individual in proceedings authorized by this article.
As added by P.L.1-1997, SEC.10.

IC 31-18-3-10
Duties of the department

Sec. 10. (a) The department is the state information agency for Indiana under this article.

(b) The department shall do the following:
(1) Compile and maintain a current list, including addresses, of each Indiana tribunal that has jurisdiction under this article and

transmit a copy of the list to the state information agency of every state.

(2) Maintain a registry of tribunals and support enforcement agencies received from other states.

(3) Forward to the appropriate tribunal in the location in Indiana in which:

(A) the obligee or the obligor resides; or

(B) the obligor's property is believed to be located;

all documents concerning a proceeding under this article received from an initiating tribunal or the state information agency of the initiating state.

(4) Obtain information concerning the location of the obligor and the obligor's property within Indiana that is not exempt from execution by the following methods:

(A) Postal verification.

(B) Federal or state locator services.

(C) Examination of telephone directories.

(D) Requests for the obligor's address from employers.

(E) Examination of governmental records, including, to the extent not prohibited by other law, records relating to the following:

(i) Real property.

(ii) Vital statistics.

(iii) Law enforcement.

(iv) Taxation.

(v) Motor vehicles.

(vi) Driver's licenses.

(vii) Social Security.

(viii) Worker's compensation.

As added by P.L.1-1997, SEC.10. Amended by P.L.145-2006, SEC.243.

IC 31-18-3-11

Pleadings and accompanying documents

Sec. 11. (a) A petitioner seeking to establish or modify a support order or to establish paternity in a proceeding under this article must verify the petition. Unless otherwise ordered under section 12 of this chapter, the petition or accompanying documents must provide the following if available:

(1) The names, residential addresses, and Social Security numbers of the obligor and the obligee.

(2) The name, sex, residential address, Social Security number, and date of birth of each child for whom support is sought.

(3) Any other information that may assist in locating or identifying the respondent.

(b) The petition must:

(1) be accompanied by a certified copy of any support order in effect; and

(2) specify the relief sought.

(c) The petition and accompanying documents must conform

substantially with the requirements imposed by the forms mandated by federal law for use in cases filed by a support enforcement agency.
As added by P.L.1-1997, SEC.10.

IC 31-18-3-12
Nondisclosure of information in exceptional circumstances

Sec. 12. Upon a finding, which may be made ex parte, that the health, safety, or liberty of a party or child may be unreasonably put at risk by the disclosure of identifying information, or as provided by an existing order, a tribunal or a Title IV-D agency or its agents may determine that:

(1) the address of the party or child; or
(2) other identifying information;

may not be disclosed in a pleading or other document filed in a proceeding under this article.
As added by P.L.1-1997, SEC.10.

IC 31-18-3-13
Costs and fees

Sec. 13. (a) The petitioner or Title IV-D agent, or both, may not be required to pay a filing fee.

(b) Whenever appropriate, a responding tribunal may assess against either party all or part of the following:

(1) filing fees;
(2) reasonable attorney's fees;
(3) necessary travel expenses;
(4) blood or genetic testing costs; and
(5) any other reasonable expenses incurred by the party and their witnesses.

(c) The tribunal may not assess costs described in subsection (b) against the obligee or the support enforcement agency of either the initiating or the responding state, except as otherwise provided by law.

(d) Attorney's fees may be ordered. If attorney's fees are ordered, the court shall order the fees to be paid directly to the attorney, who may enforce the order in the attorney's own name. However, payment of support owed to the obligee has priority over fees, costs, and expenses.

(e) The tribunal shall order the payment of costs and reasonable attorney's fees if the tribunal determines that a hearing was requested primarily as the result of delay. In a proceeding under IC 31-18-6, a hearing is presumed to have been requested primarily for delay if a registered support order is confirmed or enforced without change.
As added by P.L.1-1997, SEC.10.

IC 31-18-3-14
Limited immunity

Sec. 14. (a) Participation by a petitioner in a proceeding before a responding tribunal whether:

(1) in person;

(2) by private attorney; or

(3) through services provided by the Title IV-D agency or its agents;

does not confer personal jurisdiction over the petitioner in another proceeding.

(b) A petitioner is not amenable to service of civil process while physically present in Indiana to participate in a proceeding under this article.

(c) The immunity granted by this section does not extend to civil litigation based on acts unrelated to a proceeding under this article committed by a party while present in Indiana to participate in the proceeding.

As added by P.L.1-1997, SEC.10.

IC 31-18-3-15

Nonparentage as defense

Sec. 15. A party whose paternity of a child has been previously determined by law may not plead nonparentage as a defense to a proceeding under this article.

As added by P.L.1-1997, SEC.10.

IC 31-18-3-16

Special rules of evidence and procedure

Sec. 16. (a) The physical presence of the petitioner in a responding Indiana tribunal is not required:

(1) for establishing, enforcing, or modifying a support order; or

(2) for a judgment of paternity.

(b) A verified petition, affidavit, or document substantially complying with federally mandated forms and a document incorporated by reference in any of them, not excluded under the hearsay rule if given in person, is admissible into evidence if given under oath by a party or witness residing in another state.

(c) A copy of the record of child support payments certified as a true copy of the original by the custodian of the record may be forwarded to a responding tribunal. The certified copy is:

(1) evidence of facts asserted in the copy; and

(2) admissible to show whether payments were made.

(d) Copies of bills for:

(1) paternity testing; and

(2) prenatal and postnatal health care of the mother and child;

furnished to the adverse party at least ten (10) days before trial are admissible into evidence to prove the amount of the charges billed and that the charges were reasonable, necessary, and customary.

(e) Documentary evidence transmitted from another state to an Indiana tribunal by telephone, telecopier, or other means that do not provide an original writing may not be excluded from evidence on an objection based on the means of transmission.

(f) In a proceeding under this article, an Indiana tribunal may permit a party or witness residing in another state to be deposed or to testify by telephone, audiovisual means, or other electronic means at:

(1) a designated tribunal; or
(2) another designated location in the other state.

The deposition or testimony must be conducted while the party or witness is under oath. An Indiana tribunal shall cooperate with a tribunal in another state in designating an appropriate location for the deposition or testimony.

(g) If a party called to testify at a civil hearing refuses to answer on the ground that the testimony may be self-incriminating, the trier of fact may draw an adverse inference from the refusal.

(h) A privilege against disclosure of communications between spouses who are parties to the proceeding does not apply in a proceeding under this article.

As added by P.L.1-1997, SEC.10.

IC 31-18-3-17
Communication between tribunals

Sec. 17. (a) An Indiana tribunal may communicate with a tribunal of another state in writing, by telephone, or any other means to obtain information concerning the:

(1) laws of the other state;
(2) legal effect of a judgment, a decree, or an order of the other state's tribunal; and
(3) status of a proceeding in the other state.

(b) An Indiana tribunal may furnish similar information by similar means to a tribunal of another state.

As added by P.L.1-1997, SEC.10.

IC 31-18-3-18
Assistance with discovery

Sec. 18. An Indiana tribunal may:

(1) request a tribunal of another state to assist in obtaining discovery; and
(2) upon request, compel a person over whom the Indiana tribunal has jurisdiction to respond to a discovery order issued by the tribunal of another state.

As added by P.L.1-1997, SEC.10.

IC 31-18-3-19
Receipt and disbursement of payments

Sec. 19. An Indiana tribunal shall promptly disburse amounts received under a support order as directed by the order. The agency or tribunal shall furnish to a:

(1) requesting party; or
(2) tribunal of another state;

a certified statement by the custodian of the record of the amount and date of each payment received.

As added by P.L.1-1997, SEC.10.

IC 31-18-4

Chapter 4. Establishment of Support Orders

IC 31-18-4-1

Conditions for issuance of support order by responding Indiana tribunal

Sec. 1. If a support order entitled to recognition under this article has not been issued, a responding Indiana tribunal may issue a support order if the:

(1) individual seeking the order resides in another state; or

(2) support enforcement agency seeking the order is located in another state.

As added by P.L.1-1997, SEC.10.

IC 31-18-4-2

Issuance of temporary support order after acknowledgment or determination of paternity

Sec. 2. The tribunal may issue a temporary child support order upon a finding, after notice and opportunity to be heard, that:

(1) the respondent has signed a verified statement acknowledging paternity; or

(2) the respondent's paternity has been established.

As added by P.L.1-1997, SEC.10.

IC 31-18-4-3

Issuance of support order after finding duty of support

Sec. 3. Upon finding, after notice and opportunity to be heard, that an obligor owes a duty of support, a tribunal:

(1) shall issue a support order directed to the obligor; and

(2) may issue any other order described under IC 31-18-3-5.

As added by P.L.1-1997, SEC.10.

IC 31-18-5

Chapter 5. Direct Enforcement of an Order of Another State Without Registration

IC 31-18-5-1

Recognition of income withholding order of another state

Sec. 1. (a) An income withholding order issued in another state may be sent by first class mail to the person or entity defined as the obligor's income payor under Indiana's income withholding law under IC 31-16-15 without first filing a petition or registering the order with an Indiana tribunal. Upon receipt of the order, the income payor shall:

(1) treat an income withholding order issued in another state that appears regular on its face as if the order had been issued by an Indiana tribunal;

(2) immediately provide a copy of the order to the obligor; and

(3) distribute the funds as specified in section 1.1 of this chapter.

(b) An obligor may contest the validity or enforcement of an income withholding order issued in another state in the same manner as if the order had been issued by an Indiana tribunal. IC 31-18-6 applies to the contest.

(c) The obligor shall give notice of the contest under this section to:

(1) any support enforcement agency providing services to the obligee; and

(2) a person or an agency designated in the income withholding order to receive payments, or if a person or an agency is not designated, the obligee.

As added by P.L.1-1997, SEC.10. Amended by P.L.213-1999, SEC.22.

IC 31-18-5-1.1

Compliance with withholding order

Sec. 1.1. (a) Except as provided in subsection (b) and IC 31-18-6-2.1, an employer shall withhold and distribute the funds as directed in a withholding order by complying with the applicable terms of the order that specify the following:

(1) The duration and the amount of periodic payments of current child support, stated as a certain sum.

(2) The person or agency designated to receive payments and the address to which the payments are to be forwarded.

(3) Medical support, whether in the form of periodic cash payments, stated as a certain sum, or an order to the obligor to provide health insurance coverage for the child under a policy available through the obligor's employment.

(4) The amount of periodic payments of fees and costs for a support enforcement agency, the issuing tribunal, and the obligee's attorney, stated as a certain sum.

(5) The amount of periodic payments of arrears and interest on

arrears, stated as a certain sum.

(b) The employer shall comply with the law of the state of the obligor's principal place of employment for withholding from income with respect to:

(1) the employer's fee for processing an income withholding order or credit;

(2) the maximum amount permitted to be withheld from the obligor's income; and

(3) the periods within which the employer must implement the withholding order and forward the child support payment.

As added by P.L.213-1999, SEC.23.

IC 31-18-5-2

Administrative enforcement of orders

Sec. 2. (a) Whenever enforcement is sought for:

(1) a support order;

(2) an income withholding order; or

(3) both;

issued in a Title IV-D case by a tribunal of another state, documents required for registering the order may be sent to the Title IV-D agency of Indiana.

(b) Upon receipt of the documents, the Title IV-D agency, without initially seeking to register the order, shall consider and, if appropriate, use any administrative procedure authorized by Indiana law to enforce a support order or an income withholding order or both.

(c) If the obligor does not contest administrative enforcement, the Title IV-D agency is not required to register the order. If no administrative procedure authorized by Indiana law is used, the Title IV-D agency shall send the documents required for registering the order to the appropriate Title IV-D agency.

As added by P.L.1-1997, SEC.10. Amended by P.L.213-1999, SEC.24.

IC 31-18-6

Chapter 6. Enforcement and Modification of Support Orders After Registration

IC 31-18-6-1

Registration of order for enforcement

Sec. 1. A support order or an income withholding order issued by a tribunal of another state may be registered in Indiana for enforcement.

As added by P.L.1-1997, SEC.10.

IC 31-18-6-2

Procedure to register order for enforcement

Sec. 2. (a) A support order or an income withholding order of another state may be registered in Indiana by sending the following documents and information to the appropriate tribunal in Indiana:

(1) A letter of transmittal to the tribunal requesting registration and enforcement.

(2) Two (2) copies, including one (1) certified copy, of each order that is required to be registered, including any modification of an order.

(3) A sworn statement by the party seeking registration or a certified statement by the custodian of the records showing the amount of any arrearage.

(4) The name of the obligor and, if known:

(A) the obligor's address and Social Security number;

(B) the name and address of the obligor's employer and any other source of income of the obligor; and

(C) a description and the location of property of the obligor in Indiana not exempt from execution.

(5) The name and address of the obligee and, if applicable, the agency or person to whom support payments must be remitted.

(b) On receipt of a request for registration, the registering tribunal shall cause the order to be filed as a foreign judgment, together with one (1) copy of the documents and information, regardless of form.

(c) A petition seeking a remedy that must be affirmatively sought under other Indiana law may be filed at the same time as the request for registration or later. The petition must specify the grounds for the remedy sought.

As added by P.L.1-1997, SEC.10.

IC 31-18-6-2.1

Multiple orders for enforcement

Sec. 2.1. If an obligor's employer receives multiple orders to withhold support from the earnings of the same obligor, the employer shall be considered to have satisfied the terms of the multiple orders if the law of the state of the obligor's principal place of employment to establish the priorities for withholding and allocating income withheld from multiple child support obligees is complied with.

As added by P.L.213-1999, SEC.25.

IC 31-18-6-2.2
Immunity from civil liability

Sec. 2.2. An employer who complies with an income withholding order issued in another state in accordance with this article is not subject to civil liability to any individual or agency with regard to the employer's withholding child support from the obligor's income.
As added by P.L.213-1999, SEC.26.

IC 31-18-6-2.3
Penalties

Sec. 2.3. An employer who willfully fails to comply with an income withholding order issued by another state and received for enforcement is subject to the same penalties that may be imposed for noncompliance with an order issued by a tribunal of this state.
As added by P.L.213-1999, SEC.27.

IC 31-18-6-3
Effect of registration for enforcement

Sec. 3. (a) A support order or an income withholding order issued in another state is registered when the order is filed with the clerk of the appropriate court.

(b) A registered order issued in another state is:

(1) enforceable in the same manner; and

(2) subject to the same procedures;

as an order issued by an Indiana tribunal.

(c) Except as otherwise provided in this article, an Indiana tribunal shall recognize and enforce but may not modify a registered order if the issuing tribunal had jurisdiction.
As added by P.L.1-1997, SEC.10. Amended by P.L.213-1999, SEC.28.

IC 31-18-6-4
Choice of law

Sec. 4. (a) The law of the issuing state governs the:

(1) nature, extent, amount, and duration of current payments and other obligations of support; and

(2) payment of arrearages under the order.

(b) In a proceeding for arrearages, the statute of limitations under:

(1) Indiana law; or

(2) the law of the issuing state;

whichever is longer, applies.
As added by P.L.1-1997, SEC.10.

IC 31-18-6-5
Registry of registered foreign support orders

Sec. 5. The clerk of the court shall maintain a registry of registered foreign support orders:

(1) in an appropriate location for filing the orders; and

(2) in which the clerk shall file foreign support orders.

As added by P.L.1-1997, SEC.10.

IC 31-18-6-6
Requirements for petition for registration

Sec. 6. (a) The petition for registration must:

(1) be verified and set forth:

(A) the amount remaining unpaid; and

(B) a list of any other states in which the support order is registered; and

(2) have attached to it a certified copy of the support order with all modifications of the support order.

(b) The registered foreign support order shall be given full force and effect subject to confirmation or rescission of the order by the court.

As added by P.L.1-1997, SEC.10. Amended by P.L.213-1999, SEC.29.

IC 31-18-6-7
Obtaining jurisdiction; defenses; default; adjudication

Sec. 7. (a) The procedure to obtain jurisdiction of the person or property of the obligor shall be as provided in civil cases. The obligor may assert any defense available to an action on a foreign judgment.

(b) If the obligor defaults, the court shall enter an order:

(1) confirming the registered support order; and

(2) determining the amounts remaining unpaid.

(c) If the obligor appears and a hearing is held, the court shall adjudicate the issues including the amounts remaining unpaid.

As added by P.L.1-1997, SEC.10.

IC 31-18-6-8
Confirmed order precludes further contest

Sec. 8. Confirmation of a registered order, after notice and hearing, precludes further contest of the order regarding any matter that could have been asserted at the time of registration.

As added by P.L.1-1997, SEC.10.

IC 31-18-6-9
Procedure to register child support order of another state for modification

Sec. 9. (a) A party or Title IV-D agent seeking to modify or to modify and enforce a child support order issued in another state shall register the order in Indiana in the same manner as provided in sections 1 through 4 of this chapter if the order has not been registered.

(b) A petition for modification may be filed at the same time as a request for registration or later. The petition must specify the grounds for modification.

As added by P.L.1-1997, SEC.10.

IC 31-18-6-10
Effect of registration for modification

Sec. 10. An Indiana tribunal may enforce a child support order of

another state registered for purposes of modification in the same manner as if the order had been issued by an Indiana tribunal. However, the registered order may be modified only if the requirements of section 11 of this chapter have been met.
As added by P.L.1-1997, SEC.10.

IC 31-18-6-11
Modification of child support order of another state

Sec. 11. (a) After a child support order issued in another state has been registered in Indiana, unless the provisions of section 13 of this chapter apply, the responding Indiana tribunal may modify the order only if, after notice and hearing, the responding tribunal finds that:

(1) the:

(A) child, individual obligee, and obligor do not reside in the issuing state;

(B) petitioner who is a nonresident of Indiana seeks modification; and

(C) respondent is subject to the personal jurisdiction of the Indiana tribunal; or

(2) an individual party or the child is subject to the personal jurisdiction of the tribunal and all of the individual parties have filed a written consent in the issuing tribunal providing that an Indiana tribunal may modify the support order and assume continuing, exclusive jurisdiction over the order. However, if the issuing state is a foreign jurisdiction that has not enacted the Uniform Interstate Family Support Act, the written consent of the individual party residing in Indiana is not required for the tribunal to assume jurisdiction to modify the child support order.

(b) Modification of a registered child support order is subject to the same requirements, procedures, and defenses that apply to the modification of an order issued by an Indiana tribunal. The order may be enforced and satisfied in the same manner.

(c) An Indiana tribunal may not modify any aspect of a child support order that may not be modified under the law of the issuing state. If two (2) or more tribunals have issued child support orders for the same obligor and child, the order that is controlling and must be recognized under the provisions of IC 31-18-2-7 establishes the nonmodifiable aspects of the support order.

(d) Upon the modification of a child support order issued in another state, an Indiana tribunal becomes the tribunal of continuing, exclusive jurisdiction.

(e) Not more than thirty (30) days after issuing a modified child support order, the party obtaining the modification shall file a certified copy of the order:

(1) with the issuing tribunal that had continuing, exclusive jurisdiction over the earlier order; and

(2) in each tribunal in which the party knows that the earlier order has been registered.

(f) Failure of the party obtaining the order to file a certified copy as required under subsection (e) subjects the party to appropriate

sanctions by a tribunal in which the issue of failure to file arises, but the failure has no effect on the validity or enforceability of the modified order of the new tribunal of continuing, exclusive jurisdiction.
As added by P.L.1-1997, SEC.10. Amended by P.L.213-1999, SEC.30.

IC 31-18-6-12
Recognition of order modified in another state

Sec. 12. An Indiana tribunal shall recognize a modification of its earlier child support order by a tribunal of another state that assumed jurisdiction under a law substantially similar to this article. Upon request, except as otherwise provided in this article, the Indiana tribunal shall do the following:

(1) Enforce the order that was modified only as to amounts accruing before the modification.
(2) Enforce only nonmodifiable aspects of the order.
(3) Provide other appropriate relief only for a violation of the order that occurred before the effective date of the modification.
(4) Recognize the modifying order of the other state, upon registration, for the purpose of enforcement.

As added by P.L.1-1997, SEC.10.

IC 31-18-6-13
Jurisdiction to enforce issuing state's order

Sec. 13. (a) If all of the individual parties reside in Indiana and the child does not reside in the issuing state, an Indiana tribunal has jurisdiction to enforce and to modify the issuing state's child support order in a proceeding to register the order.

(b) An Indiana tribunal exercising jurisdiction as provided in this section shall apply the provisions of IC 31-18-1, IC 31-18-2, and this chapter to the enforcement or modification proceeding. If the conditions of subsection (a) exist, IC 31-18-3 through IC 31-18-5, IC 31-18-7, and IC 31-18-8 do not apply, and the tribunal shall apply the procedural and substantive law of Indiana.
As added by P.L.213-1999, SEC.31.

IC 31-18-7
Chapter 7. Paternity Determinations

IC 31-18-7-1
Proceeding to determine paternity

Sec. 1. (a) An Indiana tribunal may serve as an initiating or a responding tribunal in a proceeding brought under:

(1) this article or a law or procedure substantially similar to this article; or

(2) a law or procedure substantially similar to the Uniform Reciprocal Enforcement of Support Act or the Revised Uniform Reciprocal Enforcement of Support Act;

to determine that the petitioner is a parent of a child or to determine that a respondent is a parent of the child.

(b) In a proceeding to determine paternity, a responding Indiana tribunal shall apply the:

(1) procedural and substantive law of Indiana; and

(2) rules of Indiana on choice of law.

As added by P.L.1-1997, SEC.10. Amended by P.L.213-1999, SEC.32.

IC 31-18-7-2
Jurisdiction

Sec. 2. Nothing in this chapter shall be construed to confer jurisdiction on the court to determine issues of custody, parenting time, or the surname of a child. However, the parties may stipulate to the jurisdiction of the court with regard to custody, parenting time, or the surname of a child.

As added by P.L.1-1997, SEC.10. Amended by P.L.68-2005, SEC.55.

IC 31-18-8
Chapter 8. Interstate Rendition

IC 31-18-8-1
Grounds for rendition

Sec. 1. (a) As used in this chapter, "governor" includes:
(1) an individual performing the functions of governor; or
(2) the executive authority of a state covered by this article.

(b) The governor of Indiana may:
(1) demand that the governor of another state surrender an individual found in the other state who is charged criminally in Indiana with having failed to provide for the support of an obligee; or
(2) on the demand by the governor of another state, surrender an individual found in Indiana who is charged criminally in the other state with having failed to provide for the support of an obligee.

(c) A provision for extradition of individuals not inconsistent with this article applies to the demand even if the individual whose surrender is demanded was not in the demanding state when the crime was allegedly committed and has not fled from the demanding state.

As added by P.L.1-1997, SEC.10.

IC 31-18-8-2
Conditions of rendition

Sec. 2. (a) Before making demand that the governor of another state surrender an individual charged criminally in Indiana with having failed to provide for the support of an obligee, the governor of Indiana may require a prosecuting attorney in Indiana to demonstrate that:
(1) at least sixty (60) days previously the obligee had initiated proceedings for support under this article; or
(2) the proceeding would be of no avail.

(b) If under:
(1) this article or a law substantially similar to this article;
(2) the Uniform Reciprocal Enforcement of Support Act; or
(3) the Revised Uniform Reciprocal Enforcement of Support Act;

the governor of another state makes a demand that the governor of Indiana surrender an individual charged criminally in that state with having failed to provide for the support of a child or other individual to whom a duty of support is owed, the governor may require a prosecuting attorney to investigate the demand and report whether a proceeding for support has been initiated or may be effective.

(c) If a proceeding for support may be effective but has not been initiated, the governor may delay honoring the demand for a reasonable time to permit the initiation of a proceeding.

(d) If a proceeding for support has been initiated and the individual whose rendition is demanded prevails, the governor may

decline to honor the demand.

(e) If the:

(1) petitioner prevails; and

(2) individual whose rendition is demanded is subject to a support order;

the governor may decline to honor the demand if the individual is complying with the support order.

As added by P.L.1-1997, SEC.10.

IC 31-18-9

Chapter 9. Miscellaneous Provisions

IC 31-18-9-1

Uniformity of application and construction

Sec. 1. This article must be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this article among states enacting it.

As added by P.L.1-1997, SEC.10.

IC 31-18-9-2

Short title

Sec. 2. This article may be cited as the Uniform Interstate Family Support Act.

As added by P.L.1-1997, SEC.10.

IC 31-18-9-3

Severability clause

Sec. 3. (a) If a provision of this article or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this article that must be given effect without the invalid provision or application.

(b) The provisions of this article are severable as described under this section.

As added by P.L.1-1997, SEC.10.

IC 31-18-9-4

Remedies

Sec. 4. Remedies under this article:

(1) are cumulative; and

(2) do not affect the availability of remedies under any other law.

As added by P.L.1-1997, SEC.10.

IC 31-19

ARTICLE 19. FAMILY LAW: ADOPTION

IC 31-19-1

Chapter 1. Jurisdiction Over Adoption Proceedings

IC 31-19-1-1

Adoptions subject to Interstate Compact on the Placement of Children

Sec. 1. Except as provided in IC 31-28-4, the adoption of a child who is born in one (1) state by a person in another state is subject to the Interstate Compact on the Placement of Children under IC 31-28-4.

As added by P.L.1-1997, SEC.11. Amended by P.L.145-2006, SEC.244.

IC 31-19-1-2

Exclusive jurisdiction of probate court

Sec. 2. (a) This section applies to each Indiana county that has a separate probate court.

(b) The probate court has exclusive jurisdiction in all adoption matters.

As added by P.L.1-1997, SEC.11.

IC 31-19-2

Chapter 2. Filing of Petition for Adoption

IC 31-19-2-1

Adoption of adult; petition; venue; consent; investigation

Sec. 1. (a) An individual who is at least eighteen (18) years of age may be adopted by a resident of Indiana:

(1) upon proper petition to the court having jurisdiction in probate matters in the county of residence of the individual or the petitioner for adoption; and

(2) with the consent of the individual acknowledged in open court.

(b) If the court in which a petition for adoption is filed under this section considers it necessary, the court may order:

(1) the type of investigation that is conducted in an adoption of a child who is less than eighteen (18) years of age; or

(2) any other inquiry that the court considers advisable;

before granting the petition for adoption.

As added by P.L.1-1997, SEC.11.

IC 31-19-2-2

Adoption of minor child; petition; venue; substituting petitioner

Sec. 2. (a) A resident of Indiana who seeks to adopt a child less than eighteen (18) years of age may, by attorney of record, file a petition for adoption with the clerk of the court having probate jurisdiction in the county in which:

(1) the petitioner for adoption resides;

(2) a licensed child placing agency or governmental agency having custody of the child is located; or

(3) the child resides.

(b) The county in which the petition for adoption may be filed is a matter of venue and not jurisdiction.

(c) Subject to IC 31-19-9-3, if an individual who files a petition for adoption of a child:

(1) decides not to adopt the child; or

(2) is unable to adopt the child;

the petition for adoption may be amended or a second petition may be filed in the same action to substitute another individual who intends to adopt the child as the petitioner for adoption. The amended petition or second petition under this subsection relates back to the date of the original petition.

As added by P.L.1-1997, SEC.11. Amended by P.L.146-2007, SEC.2.

IC 31-19-2-3

Adoption of hard to place child by nonresident; petition; venue

Sec. 3. (a) An individual who is not a resident of Indiana and who seeks to adopt a hard to place child may file a petition for adoption with the clerk of the court having probate jurisdiction in the county in which the:

(1) licensed child placing agency or governmental agency

having custody of the child is located; or
(2) child resides.
(b) The county in which a petition for adoption may be filed is a matter of venue and not jurisdiction.
As added by P.L.1-1997, SEC.11.

IC 31-19-2-4
Consent to adoption by petitioner's spouse
Sec. 4. (a) Except as provided in subsection (b), a petition for adoption by a married person may not be granted unless the husband and wife join in the action.
(b) If the petitioner for adoption is married to the:
(1) biological; or
(2) adoptive;
father or mother of the child, joinder by the father or mother is not necessary if an acknowledged consent to adoption of the biological or adoptive parent is filed with the petition for adoption.
As added by P.L.1-1997, SEC.11.

IC 31-19-2-5
Filing of petition; number of copies; verification
Sec. 5. (a) Except as provided in subsection (b), a petition for adoption must be filed in triplicate.
(b) If a petition for adoption is sponsored by a licensed child placing agency, the petition for adoption must be filed in quadruplicate.
(c) The original copy of a petition for adoption must be verified by the oath or affirmation of each petitioner for adoption.
As added by P.L.1-1997, SEC.11. Amended by P.L.197-1997, SEC.13; P.L.1-2010, SEC.120.

IC 31-19-2-6
Contents of petition
Sec. 6. A petition for adoption must specify the following:
(1) The:
(A) name if known;
(B) sex, race, and age if known, or if unknown, the approximate age; and
(C) place of birth;
of the child sought to be adopted.
(2) The new name to be given the child if a change of name is desired.
(3) Whether or not the child possesses real or personal property and, if so, the value and full description of the property.
(4) The:
(A) name, age, and place of residence of a petitioner for adoption; and
(B) if married, place and date of their marriage.
(5) The name and place of residence, if known to the petitioner for adoption, of:

(A) the parent or parents of the child;
(B) if the child is an orphan:
(i) the guardian; or
(ii) the nearest kin of the child if the child does not have a guardian;
(C) the court or agency of which the child is a ward if the child is a ward; or
(D) the agency sponsoring the adoption if there is a sponsor.
(6) The time, if any, during which the child lived in the home of the petitioner for adoption.
(7) Whether the petitioner for adoption has been convicted of:
(A) a felony; or
(B) a misdemeanor relating to the health and safety of children;
and, if so, the date and description of the conviction.
(8) Additional information consistent with the purpose and provisions of this article that is considered relevant to the proceedings.
As added by P.L.1-1997, SEC.11. Amended by P.L.200-1999, SEC.6; P.L.131-2009, SEC.13.

IC 31-19-2-7
Medical report
Sec. 7. (a) A medical report of the health status and medical history of the child sought to be adopted and the child's birth parents must:
(1) accompany a petition for adoption; or
(2) be filed not later than sixty (60) days after the filing of a petition for adoption.
(b) The medical report must:
(1) include neonatal, psychological, physiological, and medical care history; and
(2) be on forms prescribed by the state registrar.
(c) A copy of the medical report shall be sent to the following persons:
(1) The state registrar.
(2) The prospective adoptive parents.
(d) This section does not authorize the release of medical information that would result in the identification of an individual.
As added by P.L.1-1997, SEC.11.

IC 31-19-2-7.3
Waiver of criminal history check requirements prohibited
Sec. 7.3. A court may not waive any criminal history check requirements set forth in this chapter.
As added by P.L.138-2007, SEC.36.

IC 31-19-2-7.5
Submission of information, forms, or consents for criminal history check

Sec. 7.5. (a) This section does not apply to a petitioner for adoption who provides the licensed child placing agency or the local office with the results of a criminal history check conducted:

(1) in accordance with IC 31-9-2-22.5; and

(2) not more than one (1) year before the date on which the petition is filed.

(b) Every petitioner for adoption shall submit the necessary information, forms, or consents for:

(1) a licensed child placing agency; or

(2) the local office;

that conducts the inspection and investigation required for adoption of a child under IC 31-19-8-5 to conduct a criminal history check (as defined in IC 31-9-2-22.5) of the petitioner as part of its investigation.

(c) The petitioner for adoption shall pay the fees and other costs of the criminal history check required under this section.

As added by P.L.200-1999, SEC.7. Amended by P.L.234-2005, SEC.92; P.L.128-2012, SEC.45.

IC 31-19-2-7.6

Notification of criminal charge while adoption pending

Sec. 7.6. If a petitioner for adoption is charged with:

(1) a felony; or

(2) a misdemeanor relating to the health and safety of children;

during the pendency of the adoption, the petitioner shall notify the court of the criminal charge in writing.

As added by P.L.200-1999, SEC.8.

IC 31-19-2-8

Adoption history fee; putative father registry fee

Sec. 8. Unless the petitioner for adoption seeks under section 1 of this chapter to adopt a person who is at least eighteen (18) years of age, the petitioner for adoption must attach to the petition for adoption:

(1) an adoption history fee of twenty dollars ($20) payable to the state department of health; and

(2) a putative father registry fee of fifty dollars ($50) payable to the state department of health for:

(A) administering the putative father registry established by IC 31-19-5; and

(B) paying for blood or genetic testing in a paternity action in which an adoption is pending in accordance with IC 31-14-21-9.1.

As added by P.L.1-1997, SEC.11. Amended by P.L.200-1999, SEC.9.

IC 31-19-2-9

Deposit of fees in adoption history fund

Sec. 9. Fees collected under section 8 of this chapter shall be deposited in the adoption history fund established by IC 31-19-18-6.

As added by P.L.1-1997, SEC.11.

IC 31-19-2-10
Notice of filing of petition; examination, correction, and amendment of form of petition

Sec. 10. (a) Not more than five (5) days after a petition for adoption has been filed, the clerk of the court shall notify the court of the filing.

(b) Upon receiving notice under subsection (a) that a petition for adoption has been filed, the court shall promptly:

(1) examine the petition for adoption; and

(2) determine whether the petition for adoption is in proper form.

(c) If the court does not find the petition for adoption to be in proper form, the court shall return the petition for adoption immediately to the petitioner for adoption or the petitioner's attorney.

(d) If a petition for adoption is returned under subsection (c), the petitioner for adoption shall promptly correct and amend the petition for adoption to conform to the law.

As added by P.L.1-1997, SEC.11.

IC 31-19-2-11
Clerk's examination of form of petition

Sec. 11. If the judge of the court dies, is disabled, or is absent, the clerk of the court shall examine the petition for adoption and the petition for adoption shall be acted upon accordingly.

As added by P.L.1-1997, SEC.11.

IC 31-19-2-12
Copies of petition forwarded to licensed child placing agency

Sec. 12. As soon as a petition for adoption is found to be in proper form, the clerk of the court shall forward one (1) copy of the petition for adoption to a licensed child placing agency as described in IC 31-9-2-17.5, with preference to be given to the agency, if any, sponsoring the adoption, as shown by the petition for adoption.

As added by P.L.1-1997, SEC.11. Amended by P.L.145-2006, SEC.245; P.L.146-2006, SEC.17; P.L.131-2009, SEC.14; P.L.162-2011, SEC.13; P.L.128-2012, SEC.46.

IC 31-19-2-13
Temporary custody of adopted children

Sec. 13. (a) Except for a child who is under the care and supervision of the department, a petitioner for adoption may file a separate, ex parte, verified petition requesting temporary custody of a child sought to be adopted at the time of or any time after the filing of a petition for adoption. The petition for temporary custody must be signed by each petitioner for adoption.

(b) A court may grant a petition for temporary custody filed under subsection (a) if the court finds that:

(1) the petition for adoption is in proper form; and

(2) placing the child with the petitioner or petitioners for adoption pending the hearing on the petition for adoption is in

the best interests of the child.

(c) If temporary custody is granted under this section, the petitioner or petitioners for adoption are legally and financially responsible for the child until otherwise ordered by the court.

(d) To the extent that a temporary custody order issued under this section conflicts with a custody order issued by any other court except a court having appellate jurisdiction over the child, a temporary order under this section controls.

(e) A:

(1) party to the adoption; or

(2) person who had:

(A) custody of; or

(B) parenting time or visitation with;

the child before a temporary custody order was issued under this section;

may file a petition to suspend, modify, or revoke the temporary custody order granted under this section.

(f) Upon receipt of a petition described in subsection (e), the court shall set the matter for hearing.

(g) The court may suspend, modify, or revoke the temporary custody order if the court determines suspension, modification, or revocation of the temporary custody order is in the best interests of the child.

As added by P.L.61-2003, SEC.2. Amended by P.L.145-2006, SEC.246; P.L.81-2014, SEC.1.

IC 31-19-2-14

Consolidated paternity and adoption proceedings

Sec. 14. (a) If a petition for adoption and a paternity action are pending at the same time for a child sought to be adopted, the court in which the petition for adoption has been filed has exclusive jurisdiction over the child, and the paternity proceeding must be consolidated with the adoption proceeding.

(b) If the petition for adoption is dismissed, the court hearing the consolidated adoption and paternity proceeding shall determine who has custody of the child under IC 31-19-11-5.

(c) Following a dismissal of the adoption petition under subsection (b), the court may:

(1) retain jurisdiction over the paternity proceeding; or

(2) return the paternity proceeding to the court in which it was originally filed.

If the paternity proceeding is returned to the court in which it was originally filed, the court assumes jurisdiction over the child, subject to any provisions of the consolidated court's order under IC 31-19-11-5.

As added by P.L.61-2003, SEC.3. Amended by P.L.81-2014, SEC.2.

IC 31-19-2.5

Chapter 2.5. General Notice Requirements

IC 31-19-2.5-1

Application

Sec. 1. This chapter applies to notice given to a:

(1) putative father under IC 31-19-4; and

(2) person under IC 31-19-4.5.

As added by P.L.61-2003, SEC.4.

IC 31-19-2.5-2

Notice of adoption

Sec. 2. (a) Except as provided in subsection (b), IC 31-19-4 applies to notice given to a putative father and IC 31-19-4.5 applies to notice given to other persons.

(b) If a petition for adoption alleges the consent of a putative father or a parent to the adoption has not been obtained and is unnecessary under:

(1) IC 31-19-9-8(a)(1);

(2) IC 31-19-9-8(a)(2);

(3) IC 31-19-9-8(a)(4)(B);

(4) IC 31-19-9-8(a)(4)(C);

(5) IC 31-19-9-8(a)(9); or

(6) IC 31-19-9-8(a)(11);

notice must be given under IC 31-19-4.5.

As added by P.L.61-2003, SEC.4.

IC 31-19-2.5-3

Required notice

Sec. 3. (a) Except as provided in section 4 of this chapter, notice must be given to a:

(1) person whose consent to adoption is required under IC 31-19-9-1; and

(2) putative father who is entitled to notice under IC 31-19-4.

(b) If the parent-child relationship has been terminated under IC 31-35 (or IC 31-6-5 before its repeal), notice of the pendency of the adoption proceedings shall be given to the:

(1) licensed child placing agency; or

(2) local office;

of which the child is a ward.

As added by P.L.61-2003, SEC.4. Amended by P.L.97-2004, SEC.108; P.L.1-2007, SEC.195; P.L.128-2012, SEC.47.

IC 31-19-2.5-4

Notice not required

Sec. 4. Notice of the pendency of the adoption proceedings does not have to be given to:

(1) a person whose consent to adoption has been filed with the petition for adoption;

(2) a person whose consent to adoption is not required by:

(A) IC 31-19-9-8(a)(4)(A);
(B) IC 31-19-9-8(a)(4)(D);
(C) IC 31-19-9-8(a)(5);
(D) IC 31-19-9-8(a)(6);
(E) IC 31-19-9-8(a)(7);
(F) IC 31-19-9-8(a)(8);
(G) IC 31-19-9-9;
(H) IC 31-19-9-10;
(I) IC 31-19-9-12;
(J) IC 31-19-9-15; or
(K) IC 31-19-9-18;

(3) the hospital of an infant's birth or a hospital to which an infant is transferred for medical reasons after birth if the infant is being adopted at or shortly after birth;

(4) a person whose parental rights have been terminated before the entry of a final decree of adoption; or

(5) a person who has waived notice under:
(A) IC 31-19-4-8; or
(B) IC 31-19-4.5-4.

As added by P.L.61-2003, SEC.4. Amended by P.L.58-2009, SEC.9.

IC 31-19-2.5-5
Validity of notice

Sec. 5. A notice served in accordance with IC 31-19-4 or IC 31-19-4.5 is valid regardless of whether the notice is served within or outside Indiana.

As added by P.L.146-2007, SEC.3.

IC 31-19-3

Chapter 3. Notice of Adoption Before Birth of Child

IC 31-19-3-1

Prebirth notice to putative father

Sec. 1. Before the birth of a child:

(1) a licensed child placing agency;

(2) an attorney representing prospective adoptive parents of the child; or

(3) an attorney representing the mother of the child;

may serve the putative father of the child or cause the putative father to be served with actual notice that the mother of the child is considering an adoptive placement for the child.

As added by P.L.1-1997, SEC.11. Amended by P.L.200-1999, SEC.10.

IC 31-19-3-2

Notice not compelling adoptive placement

Sec. 2. Providing the putative father with actual notice under section 1 of this chapter does not obligate the mother of the child to proceed with an adoptive placement of the child.

As added by P.L.1-1997, SEC.11.

IC 31-19-3-3

Affidavit of service of actual notice

Sec. 3. (a) Upon the filing of a petition for adoption:

(1) the licensed child placing agency sponsoring the adoption; or

(2) the attorney representing the prospective adoptive parents;

shall submit to the court an affidavit setting forth the circumstances surrounding the service of actual notice, including the time, if known, date, and manner in which the actual notice was provided.

(b) If notice is served upon the putative father under section 1(3) of this chapter:

(1) the licensed child placing agency sponsoring the adoption; or

(2) the attorney representing the prospective adoptive parents;

shall submit to the court an affidavit prepared by the attorney representing the mother of the child. An affidavit filed under this subsection must contain the same information as an affidavit filed under subsection (a).

As added by P.L.1-1997, SEC.11. Amended by P.L.197-1997, SEC.14; P.L.200-1999, SEC.11.

IC 31-19-3-4

Form of notice

Sec. 4. Notice of the potential adoption under this chapter must be provided to the putative father of the child in substantially the following form:

"_____ (putative father's name), who has been named

as the father of the unborn child of _____ (birth mother's name), or who claims to be the father of the unborn child, is notified that _____ (birth mother's name) has expressed an intention to secure an adoptive placement for the child.

If _____ (putative father's name) seeks to contest the adoption of the unborn child, the putative father must file a paternity action to establish his paternity in relation to the unborn child not later than thirty (30) days after the receipt of this notice.

If _____ (putative father's name) does not file a paternity action not more than thirty (30) days after receiving this notice, or having filed a paternity action, is unable to establish paternity in relation to the child under IC 31-14 or the laws applicable to a court of another state when the court obtains jurisdiction over the paternity action, the putative father's consent to the adoption or the voluntary termination of the putative father's parent-child relationship under IC 31-35-1, or both, shall be irrevocably implied and the putative father loses the right to contest the adoption, the validity of his implied consent to the adoption, the termination of the parent-child relationship, and the validity of his implied consent to the termination of the parent-child relationship. In addition, the putative father loses the right to establish paternity of the child under IC 31-14 or in a court of another state when the court would otherwise be competent to obtain jurisdiction over the paternity action, except as provided in IC 31-19-9-17(b).

Nothing _____ (mother's name) or anyone else says to _____ (putative father's name) relieves _____ (putative father's name) of his obligations under this notice.

Under Indiana law, a putative father is a person who is named as or claims that he may be the father of a child born out of wedlock but who has not yet been legally proven to be the child's father.

For purposes of this notice, _____ (putative father's name) is a putative father under the laws in Indiana regarding adoption.".

As added by P.L.1-1997, SEC.11. Amended by P.L.200-1999, SEC.12.

IC 31-19-3-5

Putative father's notice of paternity action

Sec. 5. A putative father who files a paternity action as described by IC 31-19-9-15(2) after receiving notice of a potential adoption from an attorney or a licensed child placing agency under section 1 of this chapter shall notify the attorney or agency that the paternity action has been filed. The notice must include the following information:

(1) The name of the court.

(2) The cause number.

(3) The date of filing.

As added by P.L.1-1997, SEC.11.

IC 31-19-3-6

Adoptive parents' intervention in paternity action

Sec. 6. If a putative father fails to provide notice to an attorney or a licensed child placing agency under section 5 of this chapter (or under IC 31-3-1-6.4(i) before its repeal), upon a motion of the prospective adoptive parents the court having jurisdiction over the paternity action shall allow the prospective adoptive parents to intervene in the paternity action under Rule 24 of the Indiana Rules of Trial Procedure.

As added by P.L.1-1997, SEC.11.

IC 31-19-3-7

Vacation of paternity determination; intervention by adoptive parents

Sec. 7. If the court has already established the paternity of a father who fails to provide notice under section 5 of this chapter (or under IC 31-3-1-6.4(i) before its repeal), upon motion of the prospective adoptive parents the court shall:

(1) set aside the paternity determination in order to reinstate the paternity action; and

(2) allow the prospective adoptive parents to intervene as described under section 6 of this chapter.

As added by P.L.1-1997, SEC.11.

IC 31-19-3-8

Applicability of Rules of Trial Procedure

Sec. 8. The Indiana Rules of Trial Procedure do not apply to the giving of notice under this chapter.

As added by P.L.200-1999, SEC.13.

IC 31-19-3-9

Validity of notice; putative father residing outside Indiana

Sec. 9. (a) A notice served in accordance with this chapter on a putative father who is a resident of Indiana is valid regardless of whether the notice is served within or outside Indiana.

(b) A notice served in accordance with this chapter outside Indiana on a putative father who is not a resident of Indiana is valid if the child was conceived:

(1) in Indiana; or

(2) outside Indiana, if the laws of the state in which the:

(A) father:

(i) is served notice; or

(ii) resides; or

(B) child was conceived;

allow a paternity or similar action to be filed before the birth of a child.

As added by P.L.146-2007, SEC.4.

IC 31-19-4

Chapter 4. Notice of Adoption After Birth of Child

IC 31-19-4-1

Notice to registered putative father

Sec. 1. Except as provided by IC 31-19-2.5-4, if:

(1) on or before the date the mother of a child executes a consent to the child's adoption, the mother has provided an attorney or agency arranging the adoption with the name and address of the putative father; and

(2) the putative father of the child has:

(A) failed or refused to consent to the adoption of the child; or

(B) not had the parent-child relationship terminated under IC 31-35 (or IC 31-6-5 before its repeal);

the putative father shall be given notice of the adoption proceedings under Rule 4.1 of the Indiana Rules of Trial Procedure.

As added by P.L.1-1997, SEC.11. Amended by P.L.200-1999, SEC.14; P.L.61-2003, SEC.5.

IC 31-19-4-2

Notice to putative father registered with putative father registry; name or address not provided by mother

Sec. 2. Except as provided by IC 31-19-2.5-4, if:

(1) on or before the date the mother of a child executes a consent to the child's adoption, the mother has not provided an attorney or agency arranging the adoption with the name or address, or both, of the putative father of the child; and

(2) the putative father of the child has:

(A) failed or refused to consent to the adoption of the child or has not had the parent-child relationship terminated under IC 31-35 (or IC 31-6-5 before its repeal); and

(B) registered with the putative father registry under IC 31-19-5 (or IC 31-6-5 before its repeal) within the period under IC 31-19-5-12;

the putative father shall be given notice of the adoption proceedings under Rule 4.1 of the Indiana Rules of Trial Procedure.

As added by P.L.1-1997, SEC.11. Amended by P.L.200-1999, SEC.15; P.L.61-2003, SEC.6.

IC 31-19-4-3

Notice to putative father not registered with putative father registry; name or address undisclosed by mother; child conceived outside Indiana

Sec. 3. (a) If:

(1) the mother of a child:

(A) informs an attorney or agency arranging the child's adoption, on or before the date the child's mother executes a consent to the child's adoption, that the child was conceived outside Indiana; and

(B) does not disclose to the attorney or agency the name or address, or both, of the putative father of the child; and

(2) the putative father of the child has:

(A) failed or refused to consent to the adoption of the child or has not had the parent-child relationship terminated under IC 31-35 (or IC 31-6-5 before its repeal); and

(B) not registered with the putative father registry under IC 31-19-5 within the period under IC 31-19-5-12;

the attorney or agency shall serve notice of the adoption proceedings on the putative father by publication in the same manner as a summons is served by publication under Rule 4.13(C) of the Indiana Rules of Trial Procedure.

(b) The only circumstance under which notice to the putative father must be given by publication under Rule 4.13(C) of the Indiana Rules of Trial Procedure is when the child was conceived outside of Indiana as described in subsection (a).

As added by P.L.1-1997, SEC.11. Amended by P.L.146-2007, SEC.5; P.L.58-2009, SEC.10.

IC 31-19-4-4

Notice to unnamed father; form

Sec. 4. Notice of the adoption proceeding required under section 3 of this chapter shall be given to an unnamed putative father in substantially the following form:

"NOTICE TO UNNAMED FATHER

The unnamed putative father of the child born to _____ (mother's name) on _____ (date), or the person who claims to be the father of the child born to _____ (mother's name) on _____ (date), is notified that a petition for adoption of the child was filed in the office of the clerk of _____ court, _____ (address of court).

If the unnamed putative father seeks to contest the adoption of the child, the unnamed putative father must file a motion to contest the adoption in accordance with IC 31-19-10-1 in the above named court within thirty (30) days after the date of service of this notice. This notice may be served by publication.

If the unnamed putative father does not file a motion to contest the adoption within thirty (30) days after service of this notice, the above named court shall hear and determine the petition for adoption. The unnamed putative father's consent is irrevocably implied and the unnamed putative father loses the right to contest the adoption or the validity of the unnamed putative father's implied consent to the adoption. The unnamed putative father loses the right to establish paternity of the child under IC 31-14.

Nothing _____ (mother's name) or any one else says to the unnamed putative father of the child relieves the unnamed putative father of his obligations under this notice.

Under Indiana law, a putative father is a person who is named as or claims that he may be the father of a child born out of wedlock but who has not yet been legally proven to be the child's father.

This notice complies with IC 31-19-4-4 but does not exhaustively

set forth the unnamed putative father's legal obligations under the Indiana adoption statutes. A person being served with this notice should consult the Indiana adoption statutes.".

As added by P.L.1-1997, SEC.11. Amended by P.L.200-1999, SEC.16; P.L.61-2003, SEC.7; P.L.21-2010, SEC.2.

IC 31-19-4-5

Notice to named father; form

Sec. 5. Notice of the adoption proceeding shall be given to:

(1) the putative father who is entitled to notice under section 1 or 2 of this chapter; or

(2) a named putative father under section 3 of this chapter;

in substantially the following form:

"NOTICE TO NAMED FATHER

_____ (putative father's name), who has been named the father of the child born to _____ (mother's name) on _____ (date), or who claims to be the father of the child born to _____ (mother's name) on _____ (date), is notified that a petition for adoption of the child was filed in the office of the clerk of _____ court, _____ (address of the court).

If _____ (putative father's name) seeks to contest the adoption of the child, he must file a motion to contest the adoption in accordance with IC 31-19-10-1 in the above named court not later than thirty (30) days after the date of service of this notice.

If _____ (putative father's name) does not file a motion to contest the adoption within thirty (30) days after service of this notice, the above named court will hear and determine the petition for adoption. His consent will be irrevocably implied and he will lose his right to contest either the adoption or the validity of his implied consent to the adoption. He will lose his right to establish his paternity of the child under IC 31-14.

Nothing _____ (mother's name) or anyone else says to _____ (putative father's name) relieves _____ (putative father's name) of his obligations under this notice.

Under Indiana law, a putative father is a person who is named as or claims that he may be the father of a child born out of wedlock but who has not yet been legally proven to be the child's father. For purposes of this notice, _____ (putative father's name) is a putative father under the laws in Indiana regarding adoption.

This notice complies with IC 31-19-4-5 but does not exhaustively set forth a putative father's legal obligations under the Indiana adoption statutes. A person being served with this notice should consult the Indiana adoption statutes.".

As added by P.L.1-1997, SEC.11. Amended by P.L.200-1999, SEC.17; P.L.61-2003, SEC.8; P.L.21-2010, SEC.3.

IC 31-19-4-6

Putative father not entitled to notice of adoption

Sec. 6. Except as provided in section 3 of this chapter, if:

(1) on or before the date the mother of a child executes a consent to the child's adoption, the mother does not disclose to the attorney or agency arranging the adoption the identity or address, or both, of the putative father; and

(2) the putative father has not registered with the putative father registry under IC 31-19-5 within the period under IC 31-19-5-12;

the putative father is not entitled to notice of the adoption.

As added by P.L.1-1997, SEC.11.

IC 31-19-4-7

Actual notice not required

Sec. 7. If a putative father is entitled to notice under section 1, 2, or 3 of this chapter, upon:

(1) providing service of process in the same manner as a summons and complaint are served under Rule 4.1 of the Indiana Rules of Trial Procedure for notice under section 1 or 2 of this chapter; or

(2) publication in the same manner as a summons is served by publication under Rule 4.13 of the Indiana Rules of Trial Procedure for notice under section 3 of this chapter;

no further efforts to give notice to the putative father are necessary, regardless of whether the putative father actually receives the notice.

As added by P.L.1-1997, SEC.11. Amended by P.L.197-1997, SEC.15; P.L.146-2007, SEC.6.

IC 31-19-4-8

Waiver of notice

Sec. 8. (a) The notice required by this chapter may be waived in writing before or after the birth of a child.

(b) A waiver of notice under subsection (a) must:

(1) be in writing and signed in the presence of a notary public; and

(2) acknowledge that:

(A) the waiver is irrevocable; and

(B) the person signing the waiver will not receive notice of the adoption proceedings.

A person who waives notice of an adoption may not subsequently challenge or contest an adoption of the child.

As added by P.L.1-1997, SEC.11. Amended by P.L.61-2003, SEC.9; P.L.130-2005, SEC.1.

IC 31-19-4-9

Exceptions to notice required by chapter

Sec. 9. The notice required by this chapter is not necessary:

(1) if actual notice has been given to a putative father under IC 31-19-3; or

(2) if:

(A) a person has attempted to give notice to a putative father at a particular address under IC 31-19-3; and

(B) the putative father could not be located at that address; unless the putative father registers that address with the putative father registry under IC 31-19-5.

As added by P.L.1-1997, SEC.11. Amended by P.L.130-2005, SEC.2.

IC 31-19-4-10
Repealed

(Repealed by P.L.61-2003, SEC.22.)

IC 31-19-4-11
Repealed

(Repealed by P.L.61-2003, SEC.22.)

IC 31-19-4-12
Repealed

(Repealed by P.L.61-2003, SEC.22.)

IC 31-19-4-13
Applicability of Rules of Trial Procedure

Sec. 13. Only the rules of the Indiana Rules of Trial Procedure specified in this chapter apply to the giving of notice under this chapter.

As added by P.L.200-1999, SEC.18.

IC 31-19-4.5

Chapter 4.5. Other Persons Entitled to Notice of Adoption

IC 31-19-4.5-1

Application

Sec. 1. This chapter:

(1) shall not be construed to affect notice of an adoption provided to a putative father under IC 31-19-4; and

(2) applies to a father who has abandoned, failed to support, or failed to communicate with a child.

As added by P.L.61-2003, SEC.10. Amended by P.L.146-2007, SEC.7.

IC 31-19-4.5-2

Notice when consent not required

Sec. 2. Except as provided in IC 31-19-2.5-4, if a petition for adoption alleges that consent to adoption is not required under IC 31-19-9-8, notice of the adoption must be given to the person from whom consent is allegedly not required under IC 31-19-9-8. Notice shall be given:

(1) in the same manner as a summons and complaint are served under Rule 4.1 of the Indiana Rules of Trial Procedure if the person's name and address are known; or

(2) in the same manner as a summons is served by publication under Rule 4.13 of the Indiana Rules of Trial Procedure if the name or address of the person is not known;

to a petitioner for adoption.

As added by P.L.61-2003, SEC.10. Amended by P.L.146-2007, SEC.8.

IC 31-19-4.5-3

Form of adoption notice

Sec. 3. Notice of the adoption proceeding shall be given to a person entitled to notice under section 2 of this chapter in substantially the following form:

"NOTICE OF ADOPTION

_____ (person's name) is notified that a petition for adoption of a child, named _____ (child's name, if named), born to _____ (mother's name) on _____ (date) was filed in the office of the clerk of _____ court, _____ (address of the court). The petition for adoption alleges that the consent to adoption of _____ (person's name) is not required because _____ (provide a brief description of the reason(s) the consent is not required).

If _____ (person's name) seeks to contest the adoption of the child, _____ (person's name) must file a motion to contest the adoption in accordance with IC 31-19-10-1 in the above named court not later than thirty (30) days after the date of service of this notice.

If _____ (person's name) does not file a motion to contest the adoption within thirty (30) days after service of this notice the

above named court will hear and determine the petition for adoption. The consent to adoption of _____ (person's name) will be irrevocably implied and _____ (person's name) will lose the right to contest either the adoption or the validity of _____'s (person's name) implied consent to the adoption.

No oral statement made to _____ (person's name) relieves _____ (person's name) of _____'s (person's name) obligations under this notice.

This notice complies with IC 31-19-4.5-3 but does not exhaustively set forth a person's legal obligations under the Indiana adoption statutes. A person being served with this notice should consult the Indiana adoption statutes.".

As added by P.L.61-2003, SEC.10.

IC 31-19-4.5-4

Waiver of notice

Sec. 4. (a) The notice required by this chapter may be waived in writing before or after the birth of a child.

(b) A waiver of notice under subsection (a) must:

(1) be in writing and signed in the presence of a notary public; and

(2) acknowledge that:

(A) the waiver is irrevocable; and

(B) the person signing the waiver will not receive notice of the adoption proceedings.

A person who waives notice of an adoption may not challenge or contest an adoption of the child.

As added by P.L.61-2003, SEC.10. Amended by P.L.130-2005, SEC.3.

IC 31-19-4.5-5

Content of notice

Sec. 5. The description in the notice under section 3 of this chapter of the reasons consent to adoption is not required need only include enough information to put a reasonable person on notice that a petition for adoption that alleges the person's consent to adoption is unnecessary is pending. The description does not require an exhaustive description of the reasons the person's consent to adoption is not required.

As added by P.L.61-2003, SEC.10.

IC 31-19-5

Chapter 5. Putative Father Registry

IC 31-19-5-1

Application of chapter

Sec. 1. (a) This chapter applies to a putative father whenever:

(1) an adoption under IC 31-19-2 has been or may be filed regarding a child who may have been conceived by the putative father; and

(2) on or before the date the child's mother executes a consent to the child's adoption, the child's mother has not disclosed the name or address, or both, of the putative father to the attorney or agency that is arranging the child's adoption.

(b) This chapter does not apply if, on or before the date the child's mother executes a consent to the child's adoption, the child's mother discloses the name and address of the putative father to the attorney or agency that is arranging the child's adoption.

As added by P.L.1-1997, SEC.11. Amended by P.L.58-2009, SEC.11; P.L.21-2010, SEC.4.

IC 31-19-5-2

Establishment of registry; rules

Sec. 2. The putative father registry is established within the state department of health. The state department shall adopt rules under IC 4-22-2 to administer the registry.

As added by P.L.1-1997, SEC.11.

IC 31-19-5-3

Purpose of registry

Sec. 3. The registry's purpose is to determine the name and address of a father:

(1) whose name and address have not been disclosed by the mother of the child, on or before the date the mother executes a consent to the child's adoption, to:

(A) an attorney; or

(B) an agency;

that is arranging the adoption of the child; and

(2) who may have conceived a child for whom a petition for adoption has been or may be filed;

so that notice of the adoption may be provided to the putative father.

As added by P.L.1-1997, SEC.11. Amended by P.L.1-2010, SEC.121.

IC 31-19-5-4

Notice rights of registered persons

Sec. 4. A putative father of a child who registers in accordance with this chapter (or IC 31-3-1.5 before its repeal) is entitled to notice of the child's adoption under Rule 4.1 of the Indiana Rules of Trial Procedure.

As added by P.L.1-1997, SEC.11.

IC 31-19-5-5
Necessity of registration as requisite to notice rights

Sec. 5. If, on or before the date the mother of a child executes a consent to the child's adoption, the mother does not disclose to an attorney or agency that:

(1) is arranging; or

(2) may arrange;

an adoption of the child the name or address, or both, of the putative father of the child, the putative father must register under this chapter to entitle the putative father to notice of the child's adoption.

As added by P.L.1-1997, SEC.11.

IC 31-19-5-6
Rights of presumptive fathers

Sec. 6. (a) This chapter does not relieve a man who is presumed to be a father under 31-14-7-2 from the obligation of registering in accordance with this chapter to be entitled to notice of an adoption of a child for whom the man may be the presumed father.

(b) The filing of a paternity action by a putative father does not relieve the putative father from the:

(1) obligation of registering; or

(2) consequences of failing to register;

in accordance with this chapter unless paternity has been established before the filing of the petition for adoption of the child.

As added by P.L.1-1997, SEC.11. Amended by P.L.58-2009, SEC.12.

IC 31-19-5-7
Information maintained in registry; father's agent for notice

Sec. 7. (a) The state department of health shall maintain the following information in the registry:

(1) The putative father's:

(A) name;

(B) address at which the putative father may be served with notice of an adoption under Rule 4.1 of the Indiana Rules of Trial Procedure;

(C) Social Security number; and

(D) date of birth.

(2) The mother's:

(A) name, including all other names known to the putative father that the mother uses, if known;

(B) address, if known;

(C) Social Security number, if known; and

(D) date of birth, if known.

(3) The child's:

(A) name, if known; and

(B) place of birth, if known.

(4) The date that the state department of health receives a putative father's registration.

(5) The:

(A) name of an attorney or agency that requests the state

department to search the registry under section 15 of this chapter to determine whether a putative father is registered in relation to a mother whose child is or may be the subject of an adoption; and

(B) date that the attorney or agency submits a request as provided under this subdivision.

(6) Any notice of a filing of a petition to establish paternity as described in IC 31-14-9-0.5.

(7) Any other information that the state department determines is necessary to access the information in the registry.

(b) If a putative father does not have an address where the putative father is able to be served with notice of an adoption, the putative father may designate another person as an agent for the purpose of being served with notice of adoption. The putative father must provide the department with the agent's name and the address at which the agent may be served. Service of notice upon the agent under Rule 4.1 of the Indiana Rules of Trial Procedure constitutes service of notice upon the putative father. If notice of an adoption may not be served on the agent under Rule 4.1 of the Indiana Rules of Trial Procedure as provided by this subsection, further notice of the adoption to the agent or to the putative father is not necessary.

As added by P.L.1-1997, SEC.11. Amended by P.L.197-1997, SEC.16; P.L.58-2009, SEC.13.

IC 31-19-5-8

Registry data access points

Sec. 8. The state department of health shall store the registry's data to make the data accessible under the following:

(1) The putative father's name.

(2) The mother's name.

(3) The child's name, if known.

As added by P.L.1-1997, SEC.11.

IC 31-19-5-9

Information supplied

Sec. 9. (a) A putative father who registers under this chapter shall provide to the state department of health the following:

(1) The putative father's:

(A) name;

(B) address at which the putative father may be served with notice of an adoption under Rule 4.1 of the Indiana Rules of Trial Procedure;

(C) Social Security number; and

(D) date of birth.

(2) The mother's name, including all other names known to the putative father that the mother uses.

(3) Any other information described under section 7 of this chapter that is known to the putative father.

(b) A clerk of the court shall provide to the state department of health the notice required to be prepared under IC 31-14-9-0.5.

As added by P.L.1-1997, SEC.11. Amended by P.L.58-2009, SEC.14.

IC 31-19-5-10
Registration form

Sec. 10. A putative father shall register under this chapter on a registration form prescribed by the state department of health. The registration form must be signed by the putative father and notarized.
As added by P.L.1-1997, SEC.11.

IC 31-19-5-11
Verification; amendment of information

Sec. 11. A putative father who registers under this chapter is responsible for:

(1) verifying with the state department of health the accuracy of the registration; and
(2) submitting to the state department of health an amended registration each time the information supplied by the putative father changes;

during the period specified by section 12 of this chapter.
As added by P.L.1-1997, SEC.11.

IC 31-19-5-12
Time of registration

Sec. 12. (a) To be entitled to notice of an adoption under IC 31-19-3 or IC 31-19-4, a putative father must register with the state department of health under section 5 of this chapter not later than:

(1) thirty (30) days after the child's birth; or
(2) the earlier of the date of the filing of a petition for the:
    (A) child's adoption; or
    (B) termination of the parent-child relationship between the child and the child's mother;

whichever occurs later.

(b) A putative father may register under subsection (a) before the child's birth.
As added by P.L.1-1997, SEC.11. Amended by P.L.146-2007, SEC.9.

IC 31-19-5-13
Availability of registration forms

Sec. 13. The state department of health shall:

(1) prescribe a registration form for the information that a putative father submits under section 9 of this chapter; and
(2) make the registration forms available through:
    (A) the state department;
    (B) each clerk of a circuit court; and
    (C) each local health department.

As added by P.L.1-1997, SEC.11.

IC 31-19-5-14
Public notice of purpose and operation of registry

Sec. 14. (a) Each:

(1) clerk of a circuit court;

(2) branch office of the bureau of motor vehicles;

(3) hospital; and

(4) local health department;

shall post in a conspicuous place a notice that informs the public about the purpose and operation of the registry.

(b) The notice under subsection (a) must include information regarding the following:

(1) Where to obtain a registration form.

(2) Where to register.

(3) The circumstances under which a putative father is required to register.

(4) When under section 12 of this chapter a putative father is required to register to entitle the putative father to notice of an adoption.

(5) The consequences of not submitting a timely registration.

(c) Failure to post a proper notice under this section does not relieve a putative father of the obligation to register with the state department of health in accordance with this chapter to entitle the putative father to notice of the adoption of a child who may have been conceived by the putative father.

As added by P.L.1-1997, SEC.11.

IC 31-19-5-15

Requests for search of registry by persons arranging adoption

Sec. 15. (a) An attorney or agency that arranges an adoption or may arrange an adoption may at any time request that the state department of health search the registry to determine whether a putative father:

(1) is registered in relation to a mother whose child is or may be the subject of an adoption; or

(2) has filed a petition to establish paternity.

(b) Whenever a petition for adoption is filed, the attorney or agency that arranges the adoption shall:

(1) request that the state department of health search the registry under this section at least one (1) day after the expiration of the period specified by section 12 of this chapter; and

(2) file an affidavit prepared by the state department of health under section 16 of this chapter in response to a request under subdivision (1) with the court presiding over the adoption under this article.

As added by P.L.1-1997, SEC.11. Amended by P.L.58-2009, SEC.15; P.L.1-2010, SEC.122.

IC 31-19-5-16

Affidavit of registry search; copy of notice of filing of petition to establish paternity

Sec. 16. (a) Not later than five (5) days after receiving a request under section 15 of this chapter, the state department of health shall

submit an affidavit to the attorney or agency verifying whether a putative father:

(1) is registered within the period specified by section 12 of this chapter in relation to a mother whose child is the subject of the adoption that the attorney or agency is arranging; or

(2) has filed a petition to establish paternity.

(b) Whenever the state department of health finds that one (1) or more putative fathers are registered, the state department shall:

(1) submit a copy of each registration form with the state department's affidavit; and

(2) include in the affidavit the date that the attorney or agency submits the request for a search that relates to the affidavit.

(c) Whenever the state department of health finds that one (1) or more putative fathers have filed a petition to establish paternity, the state department of health shall:

(1) submit a copy of each notice prepared by the clerk of the court under IC 31-14-9-0.5 with the state department of health's affidavit; and

(2) include in the affidavit the date the attorney or agency submitted the request for the search that relates to the affidavit.

(d) A court may not grant an adoption unless the state department's affidavit under this section is filed with the court as provided under IC 31-19-11-1(a)(4).

As added by P.L.1-1997, SEC.11. Amended by P.L.58-2009, SEC.16; P.L.1-2010, SEC.123.

IC 31-19-5-17

Departmental responsibilities upon request for registry search

Sec. 17. Whenever the state department of health receives a request under section 15 of this chapter, the state department shall:

(1) search the state department's records of paternity determinations and notices of filings of petitions to establish paternity filed under IC 31-14-9-2; and

(2) notify the attorney or agency, in compliance with IC 31-19-6, as to whether a record of a paternity determination or a notice of a filing of a petition to establish paternity has been filed concerning a child who is or may be the subject of an adoption that the attorney or agency is arranging.

As added by P.L.1-1997, SEC.11. Amended by P.L.58-2009, SEC.17.

IC 31-19-5-18

Waiver of notice rights of unregistered putative fathers; irrevocably implied consent to adoption

Sec. 18. A putative father who fails to register within the period specified by section 12 of this chapter waives notice of an adoption proceeding. The putative father's waiver under this section constitutes an irrevocably implied consent to the child's adoption.

As added by P.L.1-1997, SEC.11.

IC 31-19-5-19

Revocation of registration

Sec. 19. A putative father may revoke a registration at any time by submitting a signed, notarized statement revoking the registration.

As added by P.L.1-1997, SEC.11.

IC 31-19-5-20

Methods of submitting registration

Sec. 20. A putative father must submit a registration under this chapter:

(1) in person; or

(2) by:

(A) facsimile transmission;

(B) mail;

(C) private courier; or

(D) express delivery service.

As added by P.L.1-1997, SEC.11.

IC 31-19-5-21

Request for certified copy of registration or for information; request for copy of notice of filing of petition to establish paternity; persons qualified to apply

Sec. 21. (a) Subject to subsection (b), upon written request by:

(1) a putative father;

(2) a mother;

(3) a child;

(4) any party or attorney of record in a pending adoption;

(5) an attorney who represents:

(A) prospective adoptive parents;

(B) petitioners in an adoption;

(C) a mother;

(D) a putative father; or

(E) a licensed child placing agency;

(6) a licensed child placing agency that represents:

(A) prospective adoptive parents;

(B) petitioners in an adoption;

(C) a mother; or

(D) a putative father; or

(7) a court that presides over a pending adoption;

the state department of health shall furnish a certified copy of a putative father's registration form and a copy of any notice of a filing of a petition to establish paternity prepared under IC 31-14-9-0.5.

(b) The state department may release the certified copy of the registration form to a person under subsection (a)(1) through (a)(3) only if the information contained in the registration form names the requesting person.

(c) A person listed under subsection (a), who requests information about a registration from the state department, must do the following:

(1) Submit the request in writing.

(2) Under the penalties of perjury, state that the requesting person is entitled to receive the information under this chapter.

(3) Submit the request in a manner described by section 20(1) or 20(2) of this chapter.

As added by P.L.1-1997, SEC.11. Amended by P.L.58-2009, SEC.18.

IC 31-19-5-22

Timeliness of responses to requests; fees

Sec. 22. (a) Except as provided in section 16 of this chapter, the state department of health shall immediately respond to requests regarding registrations under this chapter:

(1) in writing; and

(2) in a manner described by section 20 of this chapter.

(b) The state department may charge a fee for responding to a request under this section, unless the state department mails the department's response.

As added by P.L.1-1997, SEC.11.

IC 31-19-5-23

Confidentiality of registry information

Sec. 23. Except as otherwise provided in this chapter, information contained within the registry is confidential.

As added by P.L.1-1997, SEC.11.

IC 31-19-5-24

Registering false information

Sec. 24. A person who knowingly or intentionally registers false information under this chapter commits a Class A misdemeanor.

As added by P.L.1-1997, SEC.11.

IC 31-19-5-25

Release or request for confidential information

Sec. 25. (a) A person who knowingly or intentionally releases or requests confidential information in violation of this chapter commits a Class A misdemeanor.

(b) It is a defense under this section if the state registrar releases confidential information while acting:

(1) in good faith; and

(2) with reasonable diligence.

As added by P.L.1-1997, SEC.11.

IC 31-19-6

Chapter 6. Search of Paternity Records and Putative Father Registry

IC 31-19-6-1

Request for search of records pending adoption proceedings

Sec. 1. An attorney or agency that arranges an adoption or may arrange an adoption may at any time request that the state department of health search the state department's records of:

(1) paternity determinations to determine whether a man's paternity of a child has been established in relation to a child who is or may be the subject of an adoption; and

(2) notices of filings of petitions to establish paternity.

As added by P.L.1-1997, SEC.11. Amended by P.L.58-2009, SEC.19.

IC 31-19-6-2

Response to search request

Sec. 2. Not later than five (5) days after receiving a request under section 1 of this chapter, the state department of health shall:

(1) submit an affidavit to the attorney or agency verifying whether a record of a paternity determination has been filed under IC 31-14-9-2 concerning the child; and

(2) search the putative father registry established by IC 31-19-5 and notify the attorney or agency, in compliance with IC 31-19-5-16 as to whether a putative father has:

(A) registered concerning the child; or

(B) filed a petition to establish paternity in relation to the child.

As added by P.L.1-1997, SEC.11. Amended by P.L.58-2009, SEC.20.

IC 31-19-6-3

Release of copy of paternity determination and notice of filing of petition to establish paternity

Sec. 3. (a) If a record of a paternity determination has been filed concerning a child who is the subject of a request under section 1 of this chapter, the state department of health shall release a copy of the record of the paternity determination to the requesting attorney or agency.

(b) If a notice of a filing of a petition to establish paternity has been filed concerning a child who is the subject of a request under section 1 of this chapter, the state department of health shall release a copy of the notice of the filing of the petition to the requesting attorney or agency.

As added by P.L.1-1997, SEC.11. Amended by P.L.58-2009, SEC.21.

IC 31-19-7

Chapter 7. Prior Approval of Placement of Child in Proposed Adoptive Home

IC 31-19-7-1

Prior written approval of placements; criminal history checks

Sec. 1. (a) A child may not be placed in a proposed adoptive home without the prior written approval of a licensed child placing agency or the local office approved for that purpose by the department.

(b) Except as provided in subsection (d), before giving prior written approval for placement in a proposed adoptive home of a child, a licensed child placing agency or the department of child services shall conduct a criminal history check (as defined in IC 31-9-2-22.5) concerning the proposed adoptive parent and any other person who is currently residing in the proposed adoptive home.

(c) The prospective adoptive parent shall pay the fees and other costs of the criminal history check required under this section.

(d) A licensed child placing agency or the department of child services is not required to conduct a criminal history check (as defined in IC 31-9-2-22.5) if a prospective adoptive parent provides the licensed child placing agency or the local office with the results of a criminal history check conducted:

(1) in accordance with IC 31-9-2-22.5; and

(2) not more than one (1) year before the date on which the licensed child placing agency or the local office provides written approval for the placement.

As added by P.L.1-1997, SEC.11. Amended by P.L.234-2005, SEC.93; P.L.145-2006, SEC.247; P.L.138-2007, SEC.37; P.L.128-2012, SEC.48.

IC 31-19-7-2

Consent of the department

Sec. 2. Whenever the written approval for placement of a child in a proposed adoptive home is obtained from a licensed child placing agency, the consent of the department is not required unless the child is a ward of the department.

As added by P.L.1-1997, SEC.11. Amended by P.L.128-2012, SEC.49.

IC 31-19-7-3

Approval filed with adoption petition

Sec. 3. Approval under this chapter for placement in a proposed adoptive home must be filed with the petition for adoption.

As added by P.L.1-1997, SEC.11.

IC 31-19-8

Chapter 8. Supervision of Child by Licensed Child Placing Agency

IC 31-19-8-1

Period of supervision as prerequisite to adoption

Sec. 1. An adoption may be granted in Indiana only after:

(1) the court has heard the evidence; and

(2) except as provided in section 2(c) of this chapter, a period of supervision, as described in section 2 of this chapter, by:

(A) a licensed child placing agency for a child who has not been adjudicated to be a child in need of services; or

(B) the department, if the child is the subject of an open child in need of services action.

As added by P.L.1-1997, SEC.11. Amended by P.L.145-2006, SEC.248; P.L.138-2007, SEC.38; P.L.131-2009, SEC.15; P.L.128-2012, SEC.50.

IC 31-19-8-2

Supervision period; waiver of supervision period

Sec. 2. (a) Except as provided in subsection (c), the period of supervision required by section 1 of this chapter may be before or after the filing of a petition for adoption, or both.

(b) The length of the period of supervision is within the sole discretion of the court hearing the petition for adoption.

(c) A court hearing a petition for adoption of a child may waive the period of supervision under subsection (a) if one (1) of the petitioners is a stepparent or grandparent of the child and the court waives the report under section 5(c) of this chapter.

As added by P.L.1-1997, SEC.11. Amended by P.L.138-2007, SEC.39.

IC 31-19-8-3

List of licensed child placing agencies and local offices of the department

Sec. 3. (a) The department shall annually compile a list of:

(1) licensed child placing agencies; and

(2) the local offices;

that conduct the inspection and supervision required for adoption of a child by IC 31-19-7-1 and section 1 of this chapter.

(b) The list of licensed child placing agencies and local offices must include a description of the following:

(1) Fees charged by each agency and the department.

(2) Geographic area served by each agency and local office.

(3) Approximate waiting period for the inspection or supervision by each licensed child placing agency and local office.

(4) Other relevant information regarding the inspection and supervision provided by a licensed child placing agency or a local office under IC 31-19-7-1 and section 1 of this chapter.

(c) The department shall do the following:

(1) Maintain in its office or on its Internet web site copies of the list compiled under this section for distribution to individuals who request a copy.

(2) Provide each local office with sufficient copies of the list prepared under this section for distribution to individuals who request a copy.

(3) Provide a copy of the list to each public library organized under IC 36-12.

(d) The department and each:

(1) local office; and

(2) public library organized under IC 36-12;

shall make the list compiled under this section available for public inspection.

As added by P.L.1-1997, SEC.11. Amended by P.L.1-2005, SEC.201; P.L.145-2006, SEC.249; P.L.131-2009, SEC.16; P.L.128-2012, SEC.51.

IC 31-19-8-4

List of approved supervising agencies

Sec. 4. To facilitate adoption proceedings, the department shall:

(1) publish;

(2) post on its web site; or

(3) furnish to each public library organized under IC 36-12;

a list of approved supervising agencies.

As added by P.L.1-1997, SEC.11. Amended by P.L.145-2006, SEC.250; P.L.131-2009, SEC.17.

IC 31-19-8-5

Agency report and recommendation; filing requirements; waiver of report

Sec. 5. (a) Except as provided in subsection (c), not more than sixty (60) days from the date of reference of a petition for adoption to each appropriate agency:

(1) each licensed child placing agency, for a child who is not adjudicated to be a child in need of services; or

(2) if the child is the subject of an open child in need of services action, each local office;

shall submit to the court a written report of the investigation and recommendation as to the advisability of the adoption.

(b) The report and recommendation:

(1) shall be filed with the adoption proceedings; and

(2) become a part of the proceedings.

(c) A court hearing a petition for adoption of a child may waive the report required under subsection (a) if one (1) of the petitioners is a stepparent or grandparent of the child and the court waives the period of supervision.

(d) If the court waives the reports required under subsection (a), the court shall require the licensed child placing agency for a child who is not adjudicated to be a child in need of services or, if the child

is the subject of an open child in need of services action, each local office to:

(1) ensure a criminal history check is conducted under IC 31-19-2-7.5; and

(2) report to the court the results of the criminal history check.

As added by P.L.1-1997, SEC.11. Amended by P.L.138-2007, SEC.40; P.L.131-2009, SEC.18; P.L.128-2012, SEC.52.

IC 31-19-8-6

Contents of report

Sec. 6. (a) The report required by section 5 of this chapter must, to the extent possible, include the following:

(1) The former environment and antecedents of the child.

(2) The fitness of the child for adoption.

(3) The suitability of the proposed home for the child.

(b) The report may not contain any of the following:

(1) Information concerning the financial condition of the prospective adoptive parents.

(2) A recommendation that a request for a subsidy be denied in whole or in part due to the financial condition of the prospective adoptive parents.

(c) The criminal history information required under IC 31-19-2-7.5 must accompany the report.

As added by P.L.1-1997, SEC.11. Amended by P.L.200-1999, SEC.19; P.L.138-2007, SEC.41; P.L.131-2009, SEC.19; P.L.162-2011, SEC.14.

IC 31-19-8-7

Summary consideration of agency's report; continuance

Sec. 7. The court shall summarily consider the report submitted under section 5 of this chapter. If the court finds that further investigation or further supervision is necessary, the court shall continue the case to a later date that the court considers advisable for final determination. At that time the court shall determine the case.

As added by P.L.1-1997, SEC.11. Amended by P.L.138-2007, SEC.42; P.L.131-2009, SEC.20.

IC 31-19-8-8

Agency report and recommendation; nonbinding on court

Sec. 8. The report and recommendation of the licensed child placing agency or local office are not binding on the court but are advisory only.

As added by P.L.1-1997, SEC.11. Amended by P.L.138-2007, SEC.43; P.L.131-2009, SEC.21; P.L.128-2012, SEC.53.

IC 31-19-8-9

Prompt hearing and determination of adoption

Sec. 9. As soon as possible after the provisions of IC 31-19-7-1 and this chapter have been satisfied, the court shall proceed to hear and determine the petition for adoption.

As added by P.L.1-1997, SEC.11.

IC 31-19-9
Chapter 9. Consent to Adoption

IC 31-19-9-0.2
Application of certain amendments to prior law

Sec. 0.2. The amendments made to IC 31-3-1-6 (before its repeal, now codified in IC 31-19-2, IC 31-19-4, this chapter, and IC 31-19-10) by P.L.293-1987 apply to a petition for adoption, except for a petition on which an adoption decree has been entered before May 4, 1987.

As added by P.L.220-2011, SEC.504.

IC 31-19-9-1
Consents required

Sec. 1. (a) Except as otherwise provided in this chapter, a petition to adopt a child who is less than eighteen (18) years of age may be granted only if written consent to adoption has been executed by the following:

(1) Each living parent of a child born in wedlock, including a man who is presumed to be the child's biological father under IC 31-14-7-1(1) if the man is the biological or adoptive parent of the child.

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

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

(B) a paternity affidavit executed under IC 16-37-2-2.1;

unless the putative father gives implied consent to the adoption under section 15 of this chapter.

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

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

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

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

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

(1) the individual's parent or parents; or

(2) the guardian of the individual's person;

unless the court, in the court's discretion, determines that it is in the best interest of the child to be adopted to require the concurrence.

As added by P.L.1-1997, SEC.11. Amended by P.L.197-1997, SEC.17; P.L.58-2009, SEC.22; P.L.128-2012, SEC.54.

IC 31-19-9-2
Execution of consent; timing; restrictions

Sec. 2. (a) The consent to adoption may be executed at any time after the birth of the child, either in the presence of:

(1) the court;
(2) a notary public or other person authorized to take acknowledgments; or
(3) an authorized agent of:
(A) the department; or
(B) a licensed child placing agency.

(b) The child's mother may not execute a consent to adoption before the birth of the child.

(c) The child's father may execute a consent to adoption before the birth of the child if the consent to adoption:
(1) is in writing;
(2) is signed by the child's father in the presence of a notary public; and
(3) contains an acknowledgment that:
(A) the consent to adoption is irrevocable; and
(B) the child's father will not receive notice of the adoption proceedings.

(d) A child's father who consents to the adoption of the child under subsection (c) may not challenge or contest the child's adoption.

(e) Except as provided in subsection (f) or (g), a person who executes a written consent to the adoption of a child may not execute a second or subsequent written consent to have another person adopt the child unless one (1) or more of the following apply:
(1) Each original petitioner provides a written statement that the petitioner is not adopting the child.
(2) The person consenting to the adoption has been permitted to withdraw the first consent to adoption under IC 31-19-10.
(3) The court dismisses the petition for adoption filed by the original petitioner or petitioners for adoption based upon a showing, by clear and convincing evidence, that it is not in the best interests of the child that the petition for adoption be granted.
(4) The court denies the petition to adopt the child filed by the original petitioner or petitioners for adoption.

(f) The department may execute more than one (1) written consent to the adoption of a child if the department determines that the execution of more than one (1) written consent is in the best interests of the child.

(g) The parents of a child who is a ward of the department may execute a second or subsequent consent if:
(1) the court with jurisdiction over the child in need of services determines that adoption by the person to whom consents were originally signed is not in the child's best interest; or
(2) if the child's placement with the person who has petitioned or intends to petition to adopt the child is disrupted.

As added by P.L.1-1997, SEC.11. Amended by P.L.130-2005, SEC.4; P.L.145-2006, SEC.251; P.L.21-2010, SEC.5; P.L.162-2011, SEC.15; P.L.128-2012, SEC.55.

IC 31-19-9-3

Validity of consent not identifying petitioner for adoption; consent to substituting petitioners

Sec. 3. (a) A consent to adoption that does not name or otherwise identify a petitioner for adoption is valid if the consent to adoption contains a statement, by the person consenting to adoption, that the person consenting to adoption voluntarily executed the consent to adoption without disclosure of the name or other identification of the petitioner for adoption.

(b) A petitioner may be substituted under IC 31-19-2-2 if:

(1) the consent to adoption executed by a child's mother contains a statement, by the mother consenting to adoption, that the mother voluntarily agrees that a petitioner for the adoption may be substituted without additional consent from the mother; or

(2) the mother executes a written consent to the substitution of a petitioner for the adoption.

The mother's consent under this subsection is not conditional regardless of whether the mother consents or does not consent to the substitution of petitioners under this subsection.

As added by P.L.1-1997, SEC.11. Amended by P.L.146-2007, SEC.10.

IC 31-19-9-4

Forms

Sec. 4. The department may furnish to the clerks of courts prescribed forms for use by parents or other persons when giving consent to adoption.

As added by P.L.1-1997, SEC.11. Amended by P.L.145-2006, SEC.252.

IC 31-19-9-5

Filing of copies

Sec. 5. Copies of a signed consent to adoption shall be filed with the investigating agency and the clerk of the court in which the petition for adoption is pending.

As added by P.L.1-1997, SEC.11.

IC 31-19-9-6

Information and forms provided to birth parents

Sec. 6. The individual who or agency that arranges for the signing of a consent to adoption shall provide each birth parent whose consent to adoption is obtained under this chapter with the following:

(1) An explanation concerning the following:

(A) The availability of adoption history information under IC 31-19-17 through IC 31-19-25.5.

(B) The birth parent's option to file a nonrelease form with the state registrar if the birth parent seeks to restrict the release of identifying information.

(C) That identifying information may be released unless the birth parent files the nonrelease form with the state registrar.

(2) A nonrelease form prescribed by the state registrar under IC 31-19-25-4.

As added by P.L.1-1997, SEC.11. Amended by P.L.191-2011, SEC.12.

IC 31-19-9-7

Nonrelease forms

Sec. 7. Upon request, the state registrar shall provide an individual or agency with a nonrelease form required by section 6(2) of this chapter.

As added by P.L.1-1997, SEC.11.

IC 31-19-9-8

Consent to adoption not required; written denial of paternity precludes challenge to adoption

Sec. 8. (a) Consent to adoption, which may be required under section 1 of this chapter, is not required from any of the following:

(1) A parent or parents if the child is adjudged to have been abandoned or deserted for at least six (6) months immediately preceding the date of the filing of the petition for adoption.

(2) A parent of a child in the custody of another person if for a period of at least one (1) year the parent:

(A) fails without justifiable cause to communicate significantly with the child when able to do so; or

(B) knowingly fails to provide for the care and support of the child when able to do so as required by law or judicial decree.

(3) The biological father of a child born out of wedlock whose paternity has not been established:

(A) by a court proceeding other than the adoption proceeding; or

(B) by executing a paternity affidavit under IC 16-37-2-2.1.

(4) The biological father of a child born out of wedlock who was conceived as a result of:

(A) a rape for which the father was convicted under IC 35-42-4-1;

(B) child molesting (IC 35-42-4-3);

(C) sexual misconduct with a minor (IC 35-42-4-9); or

(D) incest (IC 35-46-1-3).

(5) The putative father of a child born out of wedlock if the putative father's consent to adoption is irrevocably implied under section 15 of this chapter.

(6) The biological father of a child born out of wedlock if the:

(A) father's paternity is established after the filing of a petition for adoption in a court proceeding or by executing a paternity affidavit under IC 16-37-2-2.1; and

(B) father is required to but does not register with the putative father registry established by IC 31-19-5 within the period required by IC 31-19-5-12.

(7) A parent who has relinquished the parent's right to consent

to adoption as provided in this chapter.

(8) A parent after the parent-child relationship has been terminated under IC 31-35 (or IC 31-6-5 before its repeal).

(9) A parent judicially declared incompetent or mentally defective if the court dispenses with the parent's consent to adoption.

(10) A legal guardian or lawful custodian of the person to be adopted who has failed to consent to the adoption for reasons found by the court not to be in the best interests of the child.

(11) A parent if:

(A) a petitioner for adoption proves by clear and convincing evidence that the parent is unfit to be a parent; and

(B) the best interests of the child sought to be adopted would be served if the court dispensed with the parent's consent.

(12) A child's biological father who denies paternity of the child before or after the birth of the child if the denial of paternity:

(A) is in writing;

(B) is signed by the child's father in the presence of a notary public; and

(C) contains an acknowledgment that:

(i) the denial of paternity is irrevocable; and

(ii) the child's father will not receive notice of adoption proceedings.

A child's father who denies paternity of the child under this subdivision may not challenge or contest the child's adoption.

(b) If a parent has made only token efforts to support or to communicate with the child the court may declare the child abandoned by the parent.

As added by P.L.1-1997, SEC.11. Amended by P.L.197-1997, SEC.18; P.L.61-2003, SEC.11; P.L.130-2005, SEC.5.

IC 31-19-9-9

Parent's crime against child's other parent; effect on consent requirement

Sec. 9. A court shall determine that consent to adoption is not required from a parent if the:

(1) parent is convicted of and incarcerated at the time of the filing of a petition for adoption for:

(A) murder (IC 35-42-1-1);

(B) causing suicide (IC 35-42-1-2);

(C) voluntary manslaughter (IC 35-42-1-3);

(D) an attempt under IC 35-41-5-1 to commit a crime described in clauses (A) through (C); or

(E) a crime in another state that is substantially similar to a crime described in clauses (A) through (D);

(2) victim of the crime is the child's other parent; and

(3) court determines, after notice to the convicted parent and a hearing, that dispensing with the parent's consent to adoption is in the child's best interests.

As added by P.L.1-1997, SEC.11.

IC 31-19-9-10

Parent's crime against child or child's sibling; effect on consent requirement

Sec. 10. A court shall determine that consent to adoption is not required from a parent if:

(1) the parent is convicted of and incarcerated at the time of the filing of a petition for adoption for:

(A) murder (IC 35-42-1-1);

(B) causing suicide (IC 35-42-1-2);

(C) voluntary manslaughter (IC 35-42-1-3);

(D) rape (IC 35-42-4-1);

(E) criminal deviate conduct (IC 35-42-4-2) (before its repeal);

(F) child molesting (IC 35-42-4-3) as a:

(i) Class A or Class B felony, for a crime committed before July 1, 2014; or

(ii) Level 1, Level 2, Level 3, or Level 4 felony, for a crime committed after June 30, 2014;

(G) incest (IC 35-46-1-3) as a:

(i) Class B felony, for a crime committed before July 1, 2014; or

(ii) Level 4 felony, for a crime committed after June 30, 2014;

(H) neglect of a dependent (IC 35-46-1-4) as a:

(i) Class B felony, for a crime committed before July 1, 2014; or

(ii) Level 1 or Level 3 felony, for a crime committed after June 30, 2014;

(I) battery (IC 35-42-2-1) of a child as a:

(i) Class C felony, for a crime committed before July 1, 2014; or

(ii) Level 5 felony, for a crime committed after June 30, 2014;

(J) battery (IC 35-42-2-1) as a:

(i) Class A or Class B felony, for a crime committed before July 1, 2014; or

(ii) Level 2 or Level 3 felony, for a crime committed after June 30, 2014; or

(K) an attempt under IC 35-41-5-1 to commit an offense described in clauses (A) through (J);

(2) the child or the child's sibling, half-blood sibling, or step-sibling of the parent's current marriage is the victim of the offense; and

(3) after notice to the parent and a hearing, the court determines that dispensing with the parent's consent to adoption is in the child's best interests.

As added by P.L.1-1997, SEC.11. Amended by P.L.222-2001, SEC.1; P.L.158-2013, SEC.310; P.L.214-2013, SEC.23; P.L.168-2014, SEC.38.

IC 31-19-9-12
When consent of putative father irrevocably implied

Sec. 12. A putative father's consent to adoption is irrevocably implied without further court action if the putative father:

(1) fails to file a motion to contest the adoption in accordance with IC 31-19-10 within thirty (30) days after service of notice under IC 31-19-4 in the court in which the adoption is pending;

(2) having filed a motion to contest the adoption in accordance with IC 31-19-10, fails to appear at the hearing set to contest the adoption;

(3) having filed a paternity action under IC 31-14, fails to establish paternity in the action; or

(4) is required to but fails to register with the putative father registry established by IC 31-19-5 within the period under IC 31-19-5-12.

As added by P.L.1-1997, SEC.11. Amended by P.L.197-1997, SEC.19; P.L.200-1999, SEC.20; P.L.21-2010, SEC.6.

IC 31-19-9-13
Challenge of adoption or validity of implied consent by putative father; when precluded

Sec. 13. A putative father whose consent to adoption is implied under this chapter or IC 31-19-5-18 is not entitled to challenge:

(1) the adoption; or

(2) the validity of the putative father's implied consent to the adoption.

As added by P.L.1-1997, SEC.11.

IC 31-19-9-14
Establishment of paternity by putative father; when precluded

Sec. 14. A putative father whose consent to adoption of a child is implied under this chapter or IC 31-19-5-18 is not entitled to establish paternity under IC 31-14.

As added by P.L.1-1997, SEC.11.

IC 31-19-9-15
When consent of putative father irrevocably implied; additional circumstances

Sec. 15. (a) The putative father's consent to adoption of the child is irrevocably implied without further court action if the father:

(1) fails to file a paternity action:

(A) under IC 31-14; or

(B) in a court located in another state that is competent to obtain jurisdiction over the paternity action;

not more than thirty (30) days after receiving actual notice under IC 31-19-3 of the mother's intent to proceed with an adoptive placement of the child, regardless of whether the child is born before or after the expiration of the thirty (30) day period; or

(2) files a paternity action:

(A) under IC 31-14; or

(B) in a court located in another state that is competent to obtain jurisdiction over the paternity action;

during the thirty (30) day period prescribed by subdivision (1) and fails to establish paternity in the paternity proceeding under IC 31-14 or the laws applicable to a court of another state when the court obtains jurisdiction over the paternity action.

(b) This section does not prohibit a putative father who meets the requirements of section 17(b) of this chapter from establishing paternity of the child.

As added by P.L.1-1997, SEC.11. Amended by P.L.200-1999, SEC.21.

IC 31-19-9-16

Challenge of adoption or validity of irrevocably implied consent by putative father; when precluded

Sec. 16. A putative father whose consent to adoption is irrevocably implied under section 15 of this chapter is not entitled to contest:

(1) the adoption; or

(2) the validity of the putative father's implied consent to the adoption.

As added by P.L.1-1997, SEC.11.

IC 31-19-9-17

Establishment of paternity by putative father; restrictions

Sec. 17. (a) A putative father whose consent to an adoption is implied under section 15 of this chapter is not entitled to establish paternity of the child:

(1) in a court proceeding under IC 31-14; or

(2) by executing a paternity affidavit under IC 16-37-2-2.1.

(b) Notwithstanding subsection (a), a putative father who is barred from establishing paternity of the child under subsection (a) may establish paternity of the child in a court proceeding under IC 31-14 if:

(1) the putative father submits, together with the petition to establish paternity, an affidavit prepared by the:

(A) licensed child placing agency; or

(B) attorney;

that served notice or caused notice to be served upon the putative father under IC 31-19-3-1 stating that neither a petition for adoption nor a placement of the child in a proposed adoptive home is pending; and

(2) the court finds on the record, based on all the information available to the court, including an affidavit described under subdivision (1), that neither a:

(A) petition for adoption; nor

(B) placement of the child in a prospective adoptive home;

is pending.

The requirements of this subsection are jurisdictional and must be strictly adhered to by the putative father and the court.

(c) An individual who is otherwise barred from establishing paternity under this article may establish paternity in relation to a child if an adoption for the child is not pending or contemplated. A petition for adoption that is not filed or a petition for adoption that is dismissed is not a basis for enabling an individual to establish paternity under this section unless the requirements of subsection (b) are satisfied.

As added by P.L.1-1997, SEC.11. Amended by P.L.200-1999, SEC.22; P.L.61-2003, SEC.12.

IC 31-19-9-18

When implied consent to adoption irrevocable

Sec. 18. (a) The consent of a person who is served with notice under IC 31-19-4.5 to adoption is irrevocably implied without further court action if the person:

(1) fails to file a motion to contest the adoption as required under IC 31-19-10 not later than thirty (30) days after service of notice under IC 31-19-4.5; or

(2) files a motion to contest the adoption as required under IC 31-19-10 but fails to:

(A) appear at the hearing to contest the adoption; and

(B) prosecute the motion to contest without unreasonable delay.

(b) A court shall dismiss a motion to contest an adoption filed under subsection (a)(2) with prejudice and the person's consent to the adoption shall be irrevocably implied if the court finds that the person who filed the motion to contest is failing to prosecute the motion without unreasonable delay.

As added by P.L.61-2003, SEC.13.

IC 31-19-9-19

Implied consent to adoption bar to adoption challenge

Sec. 19. A person whose consent to adoption is irrevocably implied under section 18 of this chapter may not contest the adoption or the validity of the person's implied consent to the adoption.

As added by P.L.61-2003, SEC.14.

IC 31-19-10

Chapter 10. Withdrawal of Consent to Adoption; Contest of Adoption

IC 31-19-10-0.5

Standard of proof

Sec. 0.5. The party bearing the burden of proof in a proceeding under this chapter must prove the party's case by clear and convincing evidence.

As added by P.L.130-2005, SEC.6.

IC 31-19-10-1

Persons permitted to contest adoption; time for filing motion to contest

Sec. 1. (a) Except as provided in subsection (c), only a person entitled to notice of adoption under IC 31-19-4 or IC 31-19-4.5 may contest an adoption.

(b) A person contesting an adoption must file a motion to contest the adoption with the court not later than thirty (30) days after service of notice of the pending adoption.

(c) A person seeking to withdraw consent to an adoption must file a motion to withdraw consent to the adoption with the court.

As added by P.L.1-1997, SEC.11. Amended by P.L.197-1997, SEC.20; P.L.61-2003, SEC.15.

IC 31-19-10-1.2

Contested adoption; burden of proof

Sec. 1.2. (a) If a petition for adoption alleges that a parent's consent to adoption is unnecessary under:

(1) IC 31-19-9-8(a)(1); or

(2) IC 31-19-9-8(a)(2);

and the parent files a motion to contest the adoption under section 1 of this chapter, a petitioner for adoption has the burden of proving that the parent's consent to the adoption is unnecessary under IC 31-19-9-8.

(b) If a petition for adoption alleges that a parent's consent to adoption is unnecessary under:

(1) IC 31-19-9-8(a)(4)(B); or

(2) IC 31-19-9-8(a)(4)(C);

and the parent files a motion to contest the adoption under section 1 of this chapter, the parent has the burden of proving that the child was not conceived under circumstances that would cause the parent's consent to be unnecessary under IC 31-19-9-8(a)(4). The absence of a criminal prosecution and conviction is insufficient to satisfy the burden of proof.

(c) If a petition for adoption alleges that a parent's consent to adoption is unnecessary under IC 31-19-9-8(a)(9) and the parent files a motion to contest the adoption under section 1 of this chapter, a petitioner for adoption has the burden of proving that the parent's consent to the adoption is unnecessary under IC 31-19-9-8(a)(9).

(d) If a petition for adoption alleges that a legal guardian or lawful custodian's consent to adoption is unnecessary under IC 31-19-9-8(a)(10) and the legal guardian or lawful custodian files a motion to contest the adoption under section 1 of this chapter, the legal guardian or lawful custodian has the burden of proving that the withholding of the consent to adoption is in the best interests of the person sought to be adopted.

(e) If a petition for adoption alleges that a parent's consent to adoption is unnecessary under IC 31-19-9-8(a)(11) and the parent files a motion to contest the adoption under section 1 of this chapter, a petitioner for adoption has the burden of proving that the requirements of IC 31-19-9-8(a)(11) are satisfied and that the best interests of the child are served if the court dispenses with the parent's consent to adoption.

(f) If a petition for adoption alleges that a parent's consent to adoption is unnecessary under:

(1) IC 31-19-9-9; or

(2) IC 31-19-9-10;

and the parent files a motion to contest the adoption under section 1 of this chapter, a petitioner has the burden of proving that the requirements of IC 31-19-9-9 or IC 31-19-9-10, respectively, are satisfied and that the best interests of the child are served if the court dispenses with the parent's consent to adoption.

(g) If a court finds that the person who filed the motion to contest the adoption is failing to prosecute the motion without undue delay, the court shall dismiss the motion to contest with prejudice, and the person's consent to the adoption shall be irrevocably implied.

As added by P.L.61-2003, SEC.16.

IC 31-19-10-1.4

Basis for resolving contested adoption

Sec. 1.4. A court, in making a determination under section 1.2(e) of this chapter, shall consider all relevant evidence, but may not base its determination solely on a finding that a:

(1) petitioner for adoption would be a better parent for a child than the parent who filed the motion to contest the adoption; or

(2) parent has a biological link to the child sought to be adopted.

As added by P.L.61-2003, SEC.17.

IC 31-19-10-2

Notice of intent to withdraw consent or to contest adoption

Sec. 2. A person seeking to withdraw consent to an adoption under section 3 of this chapter or contesting an adoption must give notice of intent to withdraw consent to or contest the adoption to the following persons:

(1) All parties to the adoption.

(2) A person whose consent to adoption is required by IC 31-19-9.

As added by P.L.1-1997, SEC.11.

IC 31-19-10-3
Withdrawal of consent to adoption

Sec. 3. (a) A consent to adoption may be withdrawn not later than thirty (30) days after consent to adoption is signed if:

(1) the court finds, after notice and opportunity to be heard afforded to the petitioner for adoption, that the person seeking the withdrawal is acting in the best interest of the person sought to be adopted; and

(2) the court orders the withdrawal.

(b) A consent to adoption may not be withdrawn after:

(1) thirty (30) days after the consent to adoption is signed;

(2) the person who signs the consent to adoption appears, in person or by telephonic communications or video conferencing, before a court in which the petition for adoption has been or will be filed and acknowledges that the person:

(A) understood the consequences of the signing of the consent to adoption;

(B) freely and voluntarily signed the consent to adoption; and

(C) believes that adoption is in the best interests of the person to be adopted; or

(3) the person who signs the consent to adoption appears, in person or by telephonic communications or video conferencing, before a court of competent jurisdiction if the parent is outside of Indiana and acknowledges that the person:

(A) understood the consequences of the signing of the consent to adoption;

(B) freely and voluntarily signed the consent to adoption; and

(C) believes that adoption is in the best interests of the person to be adopted;

whichever occurs first.

(c) If a hearing under this section is conducted by telephonic communication or video conferencing, the court shall ensure that the hearing is recorded.

As added by P.L.1-1997, SEC.11. Amended by P.L.61-2003, SEC.18; P.L.146-2007, SEC.11.

IC 31-19-10-4
Limitation on withdrawing consent

Sec. 4. A consent to adoption may be withdrawn only as provided in this chapter and may not be withdrawn after the entry of the adoption decree.

As added by P.L.1-1997, SEC.11. Amended by P.L.58-2009, SEC.23.

IC 31-19-10-4.5
Contest of adoption by putative father

Sec. 4.5. The putative father of a child who is served with notice under IC 31-19-4 and wishes to contest the adoption must do so in accordance with this chapter.

As added by P.L.1-1997, SEC.11. Amended by P.L.197-1997, SEC.21; P.L.61-2003, SEC.19.

IC 31-19-10-5
Hearing to contest adoption

Sec. 5. Whenever a motion to contest an adoption is filed, the court shall, before entering a decree under IC 31-19-11, set the matter for a hearing to contest the adoption.
As added by P.L.1-1997, SEC.11.

IC 31-19-10-6
Determination of contest of adoption

Sec. 6. After hearing evidence at the hearing, the court shall:
(1) dismiss the petition for adoption if the court:
(A) finds that the person who filed the motion to contest the adoption has established that it is in the best interests of the child that the motion to contest the adoption be granted;
(B) finds that a required consent to adoption has not been obtained in writing or has not been implied under IC 31-19-9; or
(C) permits a necessary consent to adoption to be withdrawn; or
(2) deny the motion to contest the adoption.
As added by P.L.1-1997, SEC.11.

IC 31-19-10-7
Service of notice of adoption contest; protection of privacy of adoption petitioner

Sec. 7. (a) The court may:
(1) send all notices of the filing of a motion to contest an adoption;
(2) conduct bifurcated hearings under this chapter; and
(3) issue an order protecting the anonymity of a petitioner for adoption.
(b) An order issued under subsection (a)(3) may include an order directed to an attorney who represents a party:
(1) contesting an adoption; or
(2) seeking to withdraw a consent to adoption.
An order under subdivision (1) or (2) may order the attorney not to disclose information that identifies or may tend to identify a petitioner for adoption.
As added by P.L.1-1997, SEC.11. Amended by P.L.61-2003, SEC.20.

IC 31-19-10-8
Denial of putative father's adoption contest as bar to establishing paternity

Sec. 8. A putative father is barred from establishing paternity under IC 31-14 if his motion to contest the adoption has been denied under this chapter.
As added by P.L.1-1997, SEC.11.

IC 31-19-11

Chapter 11. Disposition of Petition for Adoption; Adoption Decree

IC 31-19-11-1

Decree; affidavit; criminal convictions and juvenile adjudications

Sec. 1. (a) Whenever the court has heard the evidence and finds that:

(1) the adoption requested is in the best interest of the child;

(2) the petitioner or petitioners for adoption are of sufficient ability to rear the child and furnish suitable support and education;

(3) the report of the investigation and recommendation under IC 31-19-8-5 has been filed;

(4) the attorney or agency arranging an adoption has filed with the court an affidavit prepared by the state department of health under IC 31-19-5-16 indicating whether a man is entitled to notice of the adoption because the man has registered with the putative father registry in accordance with IC 31-19-5;

(5) proper notice arising under subdivision (4), if notice is necessary, of the adoption has been given;

(6) the attorney or agency has filed with the court an affidavit prepared by the state department of health under:

(A) IC 31-19-6 indicating whether a record of a paternity determination; or

(B) IC 16-37-2-2(g) indicating whether a paternity affidavit executed under IC 16-37-2-2.1;

has been filed in relation to the child;

(7) proper consent, if consent is necessary, to the adoption has been given;

(8) the petitioner for adoption is not prohibited from adopting the child as the result of an inappropriate criminal history described in subsection (c) or (d); and

(9) the person, licensed child placing agency, or local office that has placed the child for adoption has provided the documents and other information required under IC 31-19-17 to the prospective adoptive parents;

the court shall grant the petition for adoption and enter an adoption decree.

(b) A court may not grant an adoption unless the state department of health's affidavit under IC 31-19-5-16 is filed with the court as provided under subsection (a)(4).

(c) A juvenile adjudication for an act listed in subdivisions (1) through (21) that would be a felony if committed by an adult, a conviction of a misdemeanor related to the health and safety of a child, or a conviction of a felony not listed in subdivisions (1) through (21) by a petitioner for adoption is a permissible basis for the court to deny the petition for adoption. In addition, the court may not grant an adoption if a petitioner for adoption has been convicted of any of the felonies described as follows:

(1) Murder (IC 35-42-1-1).
(2) Causing suicide (IC 35-42-1-2).
(3) Assisting suicide (IC 35-42-1-2.5).
(4) Voluntary manslaughter (IC 35-42-1-3).
(5) Reckless homicide (IC 35-42-1-5).
(6) Battery as a felony (IC 35-42-2-1).
(7) Domestic battery (IC 35-42-2-1.3).
(8) Aggravated battery (IC 35-42-2-1.5).
(9) Kidnapping (IC 35-42-3-2).
(10) Criminal confinement (IC 35-42-3-3).
(11) A felony sex offense under IC 35-42-4.
(12) Carjacking (IC 35-42-5-2) (repealed).
(13) Arson (IC 35-43-1-1).
(14) Incest (IC 35-46-1-3).
(15) Neglect of a dependent (IC 35-46-1-4(a)(1) and IC 35-46-1-4(a)(2)).
(16) Child selling (IC 35-46-1-4(d)).
(17) A felony involving a weapon under IC 35-47 or IC 35-47.5.
(18) A felony relating to controlled substances under IC 35-48-4.
(19) An offense relating to material or a performance that is harmful to minors or obscene under IC 35-49-3.
(20) A felony under IC 9-30-5.
(21) A felony under the laws of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in subdivisions (1) through (20).

However, the court is not prohibited from granting an adoption based upon a felony conviction under subdivision (6), (10), (12), (13), (17), (18), or (20) or its equivalent under subdivision (21), if the date of the conviction did not occur within the immediately preceding five (5) year period.

(d) A court may not grant an adoption if the petitioner is a sex or violent offender (as defined in IC 11-8-8-5) or a sexually violent predator (as defined in IC 35-38-1-7.5).

As added by P.L.1-1997, SEC.11. Amended by P.L.257-1997(ss), SEC.38; P.L.200-1999, SEC.23; P.L.1-2002, SEC.126; P.L.123-2002, SEC.29; P.L.129-2005, SEC.3; P.L.140-2006, SEC.17 and P.L.173-2006, SEC.17; P.L.145-2006, SEC.253; P.L.1-2007, SEC.196; P.L.138-2007, SEC.44; P.L.216-2007, SEC.34; P.L.3-2008, SEC.238; P.L.21-2010, SEC.7; P.L.162-2011, SEC.16; P.L.128-2012, SEC.56; P.L.158-2013, SEC.311.

IC 31-19-11-2
Custody provision in decree

Sec. 2. If the child is a ward of:
(1) a guardian;
(2) an agency; or
(3) the department;

the court shall provide for the custody of the child in the adoption decree.

As added by P.L.1-1997, SEC.11. Amended by P.L.146-2008, SEC.560.

IC 31-19-11-3
Request for financial assistance; determination of eligibility for financial assistance

Sec. 3. (a) If the petition for adoption contained a request for financial assistance, the court shall refer the petitioner to the department to complete and submit to the department the Indiana Adoption Program application for a determination of eligibility for:

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

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

(b) The department shall determine the eligibility of the adoptive child for financial assistance and the amount of assistance, if any, that will be provided.

(c) The court may not order payment of:

(1) adoption assistance under 42 U.S.C. 673; or

(2) any adoption subsidy under IC 31-19-26.5.

As added by P.L.1-1997, SEC.11. Amended by P.L.146-2008, SEC.561; P.L.131-2009, SEC.22.

IC 31-19-11-4
Names

Sec. 4. If a new name is requested in a petition for adoption, upon the entry of an adoption decree the child shall take the name requested.

As added by P.L.1-1997, SEC.11.

IC 31-19-11-5
Dismissal of petition; gradual change of custody

Sec. 5. (a) If the court dismisses a petition for adoption, the court shall determine the person who should have custody of the child.

(b) If the court determines that it is necessary to change the child's custody to another person, regardless of the person's right to immediate custody, the court may order a plan for a gradual change of custody to ease the child's transition unless the gradual change of custody would:

(1) endanger the child's physical health; or

(2) significantly impair the child's emotional development.

(c) The court may do the following:

(1) Implement a change of custody under this section by gradually increasing the child's visitation with each person who is entitled to custody.

(2) Order counseling for the child and the persons involved in the change of custody so that a plan for the gradual change of custody may be developed and implemented.

(3) Consult with the counselor who assists the persons in developing the plan to determine an order for the gradual change of custody that meets the child's best interests.

As added by P.L.1-1997, SEC.11.

IC 31-19-11-6
Court prohibitions on granting petitions for adoption

Sec. 6. The court may not grant a petition for adoption of a child if:

(1) the parent-child relationship between the child and a parent has been terminated; and

(2) one (1) or more of the following apply with respect to the termination described in subdivision (1):

(A) The time for filing an appeal (including a request for transfer or certiorari) has not elapsed.

(B) An appeal is pending.

(C) An appellate court is considering a request for transfer or certiorari.

As added by P.L.1-1997, SEC.11. Amended by P.L.81-2014, SEC.3.

IC 31-19-12

Chapter 12. Record of Adoption

IC 31-19-12-1

Records

Sec. 1. For each adoption and for each annulment or revocation of adoption decreed by an Indiana court, the clerk of the court shall prepare a record on a form prescribed and furnished by the state department of health. The record must include the following:

(1) All facts necessary to:

(A) locate and identify the certificate of birth of the individual adopted; and

(B) establish a new certificate of birth for the individual adopted.

(2) Official notice from the court of the fact of adoption, including identification of the court action and proceedings.

As added by P.L.1-1997, SEC.11.

IC 31-19-12-2

Information for new birth records

Sec. 2. (a) The official decree of each:

(1) adoption; or

(2) annulment or revocation of adoption;

that is provided to the clerk of the circuit court for the official order book record must set forth all pertinent information that is necessary to make possible the establishment of the birth records prescribed by section 1 of this chapter.

(b) The completion of the record is a prerequisite to the issuance of a certificate of final adoption by the court.

As added by P.L.1-1997, SEC.11.

IC 31-19-12-3

Forwarding of records and reports to state department of health

Sec. 3. Not later than the tenth day of each calendar month, the clerk of the court shall forward to the state department of health records of decrees of:

(1) adoption; or

(2) annulment, revocation, or amendment of adoption;

entered in the preceding month, together with related reports required by the state department of health.

As added by P.L.1-1997, SEC.11.

IC 31-19-12-4

Adoption records for individuals born outside Indiana

Sec. 4. (a) When the state department of health receives from a court a record of:

(1) adoption; or

(2) annulment, revocation, or amendment of adoption;

for an individual born outside of Indiana, the state department of health shall forward the record to the appropriate registration

authority.

(b) If the registration authority fails to supply a certificate of birth in the adoptive status after the expiration of ninety (90) days after the receipt of the record of adoption, the state department of health shall create a delayed registration record of birth in the adoptive status when requested.

As added by P.L.1-1997, SEC.11.

IC 31-19-12-5

Transfer of adoption records to state registrar

Sec. 5. (a) As used in this section, "record" includes the following:

(1) A court document.

(2) A medical record.

(3) A social or medical history.

(4) A photograph.

(5) Correspondence being held for the benefit of:

(A) a birth parent;

(B) a person who was adopted;

(C) an adoptive parent; or

(D) a sibling of the person who was adopted.

(b) A child placing agency, governmental entity, or licensed attorney who arranges or facilitates an adoption may, after entry of the adoption decree, transfer an adoption record to the state registrar for inclusion in the adoption history program administered by the state registrar, or, after giving notice to the state registrar, to a transferee agency that assumes responsibility for the preservation of records maintained as part of the adoption history program.

(c) An attorney who complies with this section does not violate attorney-client privilege.

(d) A record maintained or transferred under this section is confidential.

As added by P.L.130-2005, SEC.7.

IC 31-19-13

Chapter 13. Establishment of New Birth Certificate Following Adoption

IC 31-19-13-1

New certificate of birth

Sec. 1. (a) Except as provided in subsection (b), the state department of health shall establish a new certificate of birth for an individual born in Indiana upon a receipt of an official report that the individual has been adopted.

(b) The state department of health shall not establish a new certificate of birth following an adoption if:

(1) the court decreeing the adoption;

(2) the adoptive parents; or

(3) the adopted individual;

so requests.

(c) A new certificate of birth established under this section must show the actual place and date of birth.

As added by P.L.1-1997, SEC.11.

IC 31-19-13-2

Replacement of original registration of birth; filing; confidentiality

Sec. 2. When a new certificate of birth is established following adoption, the new certificate of birth replaces the original registration of birth. The original registration of birth shall be filed with the evidence of adoption and withheld from inspection except:

(1) for a child adopted by a stepparent; or

(2) as provided in IC 31-19-17 through IC 31-19-25.5.

As added by P.L.1-1997, SEC.11. Amended by P.L.191-2011, SEC.13.

IC 31-19-13-3

Annulment or revocation of adoption; restoration of original certificate of birth

Sec. 3. Upon receipt of a notice of annulment or revocation of adoption, the original certificate of birth shall be restored.

As added by P.L.1-1997, SEC.11.

IC 31-19-13-4

Seal or surrender of replaced certificate of birth

Sec. 4. When the state department of health establishes a new certificate of birth following an adoption, each local health department in Indiana having custody of the replaced certificate of birth shall:

(1) seal the replaced certificate from inspection; or

(2) surrender the replaced certificate to the state department of health;

as the state department of health directs.

As added by P.L.1-1997, SEC.11.

IC 31-19-14

Chapter 14. Limitations on Direct or Collateral Attacks or Appeals of Adoption Decrees

IC 31-19-14-1

Expedited appeal proceedings

Sec. 1. An appeal of an adoption decree shall be decided on an expedited basis.

As added by P.L.1-1997, SEC.11.

IC 31-19-14-2

Time for challenge to adoption decree

Sec. 2. Except as provided in section 3 of this chapter, if a person whose parental rights are terminated by the entry of an adoption decree challenges the adoption decree not more than the later of:

(1) six (6) months after the entry of an adoption decree; or

(2) one (1) year after the adoptive parents obtain custody of the child;

the court shall sustain the adoption decree unless the person challenging the adoption decree establishes, by clear and convincing evidence, that modifying or setting aside the adoption decree is in the child's best interests.

As added by P.L.1-1997, SEC.11.

IC 31-19-14-3

Time for withdrawal of consent to adoption, contest or challenge to adoption, or establishment of paternity

Sec. 3. (a) A person who consents to an adoption may not withdraw the consent to adoption after the entry of the adoption decree under IC 31-19-10-4.

(b) A person who is served with notice of an adoption under IC 31-19-4 may not:

(1) contest the adoption; or

(2) establish paternity;

more than thirty (30) days after the date of service of notice of the adoption.

(c) A person who receives actual notice of an adoption under IC 31-19-3 may not:

(1) contest the adoption; or

(2) establish paternity;

more than thirty (30) days after the date of receiving actual notice of the adoption.

(d) A person who is prohibited from taking action by subsection (a), (b), or (c) may not challenge an adoption decree.

As added by P.L.1-1997, SEC.11.

IC 31-19-14-4

Expiration of time to challenge; appeal for lack of notice or defective proceedings barred

Sec. 4. After the expiration of the period described in section 2 of

this chapter, a person whose parental rights are terminated by the entry of an adoption decree may not challenge the adoption decree even if:

(1) notice of the adoption was not given to the child's putative father; or

(2) the adoption proceedings were in any other manner defective.

As added by P.L.1-1997, SEC.11.

IC 31-19-15
Chapter 15. Effect of Adoption on Parents

IC 31-19-15-1
Effect upon duties, obligations, and rights of biological parents; parent-child relationship terminated

Sec. 1. (a) Except as provided in section 2 of this chapter or IC 31-19-16, if the biological parents of an adopted person are alive, the biological parents are:

(1) relieved of all legal duties and obligations to the adopted child; and

(2) divested of all rights with respect to the child;

and the parent-child relationship is terminated after the adoption unless the parent-child relationship was terminated by an earlier court action, operation of law, or otherwise.

(b) The obligation to support the adopted person continues until the entry of the adoption decree. The entry of the adoption decree does not extinguish the obligation to pay past due child support owed for the adopted person before the entry of the adoption decree.

As added by P.L.1-1997, SEC.11. Amended by P.L.130-2005, SEC.8; P.L.58-2009, SEC.24.

IC 31-19-15-2
Stepparent adoptions

Sec. 2. (a) If the adoptive parent of a child is married to a biological parent of the child, the parent-child relationship of the biological parent is not affected by the adoption.

(b) If the adoptive parent of a child is married to a previous adoptive parent, the parent-child relationship of the previous adoptive parent is not affected by the adoption.

(c) After the adoption, the adoptive father or mother, or both:

(1) occupy the same position toward the child that the adoptive father or the adoptive mother, or both, would occupy if the adoptive father or adoptive mother, or both, were the biological father or mother; and

(2) are jointly and severally liable for the maintenance and education of the person.

As added by P.L.1-1997, SEC.11. Amended by P.L.130-2005, SEC.9.

IC 31-19-16

Chapter 16. Postadoption Visitation Privileges

IC 31-19-16-1

Postadoption contact privileges granted to birth parent

Sec. 1. At the time an adoption decree is entered, the court entering the adoption decree may grant postadoption contact privileges under section 2 of this chapter to a birth parent who has:

(1) consented to the adoption; or

(2) voluntarily terminated the parent-child relationship.

As added by P.L.1-1997, SEC.11. As amended by P.L.196-1997, SEC.4.

IC 31-19-16-2

Procedure

Sec. 2. A court may grant postadoption contact privileges if:

(1) the court determines that the best interests of the child would be served by granting postadoption contact privileges;

(2) the child is at least two (2) years of age and the court finds that there is a significant emotional attachment between the child and the birth parent;

(3) each adoptive parent consents to the granting of postadoption contact privileges;

(4) the adoptive parents and the birth parents:

(A) execute a postadoption contact agreement; and

(B) file the agreement with the court;

(5) the licensed child placing agency sponsoring the adoption and the child's court appointed special advocate or guardian ad litem appointed under IC 31-32-3 recommends to the court the postadoption contact agreement, or if there is no licensed child placing agency sponsoring the adoption, the local office or other agency that prepared an adoption report under IC 31-19-8-5 is informed of the contents of the postadoption contact agreement and comments on the agreement in the agency's report to the court;

(6) consent to postadoption contact is obtained from the child if the child is at least twelve (12) years of age; and

(7) the postadoption contact agreement is approved by the court.

As added by P.L.1-1997, SEC.11. Amended by P.L.196-1997, SEC.5; P.L.128-2012, SEC.57.

IC 31-19-16-3

Postadoption contact agreement

Sec. 3. A postadoption contact agreement filed under section 2(4) of this chapter must contain the following provisions:

(1) An acknowledgment by the birth parents that the adoption is irrevocable, even if the adoptive parents do not abide by the postadoption contact agreement.

(2) An acknowledgment by the adoptive parents that the agreement grants the birth parents the right to seek to enforce

the postadoption privileges set forth in the agreement.
As added by P.L.1-1997, SEC.11. Amended by P.L.196-1997, SEC.6.

IC 31-19-16-4
Modification or enforcement of agreement

Sec. 4. A birth parent or an adoptive parent may file a petition with the court entering the adoption decree for the following purposes:

(1) To modify the postadoption contact agreement.
(2) To compel a birth parent or an adoptive parent to comply with the postadoption contact agreement.

As added by P.L.1-1997, SEC.11. Amended by P.L.196-1997, SEC.7.

IC 31-19-16-5
Monetary damages

Sec. 5. The court may not award monetary damages as a result of the filing of a petition under section 4 of this chapter.
As added by P.L.1-1997, SEC.11.

IC 31-19-16-6
Voiding or modifying agreement

Sec. 6. (a) The court may void or modify a postadoption contact agreement approved under this chapter at any time before or after the adoption if the court determines after a hearing that the best interest of the child requires the voiding or modifying of the agreement.

(b) Before the court:

(1) voids or modifies an agreement; or
(2) hears a motion to compel compliance with an agreement approved under this chapter;

the court may appoint a guardian ad litem or court appointed special advocate under IC 31-32-3 to represent and protect the best interests of the child.
As added by P.L.1-1997, SEC.11. Amended by P.L.196-1997, SEC.8.

IC 31-19-16-7
Guardian ad litem or court appointed special advocate

Sec. 7. The provisions of IC 31-32-3 concerning the:

(1) representation;
(2) duties;
(3) liabilities; and
(4) appointment;

of a guardian ad litem or court appointed special advocate apply to proceedings under this chapter.
As added by P.L.1-1997, SEC.11.

IC 31-19-16-8
Revocation of adoption decree barred as sanction for noncompliance with agreement

Sec. 8. A court may not revoke an adoption decree because a birth parent or an adoptive parent fails to comply with a postadoption

contact agreement approved by a court under this chapter.
As added by P.L.1-1997, SEC.11. Amended by P.L.196-1997, SEC.9.

IC 31-19-16-9
Privileges without court approval

Sec. 9. Postadoption contact privileges are permissible without court approval in an adoption of a child who is less than two (2) years of age upon the agreement of the adoptive parents and a birth parent. However, postadoption contact privileges under this section may not include visitation. A postadoption contact agreement under this section:

(1) is not enforceable; and

(2) does not affect the finality of the adoption.

As added by P.L.196-1997, SEC.10. Amended by P.L.2-1998, SEC.76.

IC 31-19-16.5

Chapter 16.5. Postadoption Sibling Contact

IC 31-19-16.5-1

Order for postadoption sibling contact

Sec. 1. At the time an adoption decree is entered, the court entering the decree may order the adoptive parents to provide specific postadoption contact for an adopted child who is at least two (2) years of age with a pre-adoptive sibling if:

(1) the court determines that the postadoption contact would serve the best interests of the adopted child; and

(2) each adoptive parent consents to the court's order for postadoption contact privileges.

As added by P.L.196-1997, SEC.11.

IC 31-19-16.5-2

Determination by court; considerations

Sec. 2. In making its determination under section 1 of this chapter, the court shall consider any relevant evidence, including the following:

(1) A recommendation made by a licensed child placing agency sponsoring the adoption.

(2) A recommendation made by the adopted child's court appointed special advocate or guardian ad litem.

(3) A recommendation made by the local office or other agency that prepared a report of its investigation and its recommendation as to the advisability of the adoption under IC 31-19-8-5.

(4) Wishes expressed by the adopted child or adoptive parents.

As added by P.L.196-1997, SEC.11. Amended by P.L.128-2012, SEC.58.

IC 31-19-16.5-3

Effect of noncompliance with order

Sec. 3. If postadoption contact is ordered under this chapter, the adoption is irrevocable even if the adoptive parents do not abide by the postadoption contact order.

As added by P.L.196-1997, SEC.11.

IC 31-19-16.5-4

Persons entitled to file petition to vacate or modify order

Sec. 4. The following persons may file a petition requesting that the court vacate or modify a postadoption contact order with a pre-adoptive sibling or to compel an adoptive parent to comply with the postadoption contact order:

(1) A pre-adoptive sibling by:

(A) next friend; or

(B) guardian ad litem or court appointed special advocate.

(2) The adopted child by:

(A) next friend; or

(B) guardian ad litem or court appointed special advocate as described in section 5 of this chapter.

(3) An adoptive parent.

As added by P.L.196-1997, SEC.11.

IC 31-19-16.5-5

Vacation or modification of order; time; appointment of guardian ad litem or advocate

Sec. 5. The court may vacate or modify a postadoption contact order entered under this chapter at any time after the adoption if the court determines, after a hearing, that it is in the best interests of the adopted child. Before hearing the petition to:

(1) vacate or modify; or

(2) compel compliance with;

the postadoption contact order, the court may appoint a guardian ad litem or court appointed special advocate to represent and protect the best interests of the adopted child. However, the court may only appoint a guardian ad litem or court appointed special advocate for the adopted child under this chapter if the interests of an adoptive parent differ from the child's interests to the extent that the court determines that the appointment is necessary to protect the best interests of the child.

As added by P.L.196-1997, SEC.11.

IC 31-19-16.5-6

Guardian ad litem or court appointed special advocate

Sec. 6. The provisions regarding the representation, duties, and appointment of a guardian ad litem or court appointed special advocate by a juvenile court described under IC 31-32-3 apply to postadoption contact proceedings under this chapter.

As added by P.L.196-1997, SEC.11.

IC 31-19-16.5-7

Violation of order; prohibited penalties

Sec. 7. The court may not:

(1) award monetary damages; or

(2) revoke an adoption decree;

if the court finds that a postadoption contact order entered under this chapter has been violated.

As added by P.L.196-1997, SEC.11.

IC 31-19-17

Chapter 17. Preparation of Adoption History for Adoptive Parents

IC 31-19-17-1

Application of chapter

Sec. 1. Except as provided in section 5 of this chapter, this chapter applies only to an adoption that is granted after June 30, 1993.

As added by P.L.1-1997, SEC.11. Amended by P.L.100-2005, SEC.1.

IC 31-19-17-2

Report of medical, psychological, and educational records of birth parents

Sec. 2. A person, a licensed child placing agency, or a local office placing a child for adoption shall prepare or cause to be prepared a report summarizing the available medical, psychological, and educational records of the person or agency concerning the birth parents. The person, agency, or local office shall exclude from this report information that would identify the birth parents unless the prospective adoptive parents know the identity of the birth parents. The person, agency, or local office shall give the report to:

(1) the prospective adoptive parents:

(A) at the time the home study or evaluation concerning the suitability of the proposed home for the child is commenced;

(B) as soon as practical after the prospective adoptive parents are matched with the birth mother; or

(C) with the consent of the prospective adoptive parents, not more than thirty (30) days after the child is placed with the prospective adoptive parents; and

(2) upon request and without information that would identify the birth parents unless an adoptee already knows the identity of the birth parents, an adoptee who:

(A) is at least twenty-one (21) years of age; and

(B) provides proof of identification.

As added by P.L.1-1997, SEC.11. Amended by P.L.197-1997, SEC.22; P.L.100-2005, SEC.2; P.L.129-2005, SEC.4; P.L.58-2009, SEC.25; P.L.162-2011, SEC.17; P.L.128-2012, SEC.59.

IC 31-19-17-3

Exclusion of information identifying birth parent; release of records concerning child to adoptive parents and adoptee

Sec. 3. The person, licensed child placing agency, or local office shall:

(1) exclude information that would identify the birth parents unless the prospective adoptive parent or the adoptive parent under subdivision (2)(A) or an adoptee under subdivision (2)(B) who requests the information knows the identity of the birth parents; and

(2) release all available social, medical, psychological, and educational records concerning the child to:

(A) the prospective adoptive parent or the adoptive parent; and

(B) upon request, an adoptee who:

(i) is at least twenty-one (21) years of age; and

(ii) provides proof of identification.

As added by P.L.1-1997, SEC.11. Amended by P.L.197-1997, SEC.23; P.L.100-2005, SEC.3; P.L.1-2006, SEC.497; P.L.58-2009, SEC.26; P.L.131-2009, SEC.23; P.L.1-2010, SEC.124; P.L.162-2011, SEC.18; P.L.128-2012, SEC.60.

IC 31-19-17-4

Summary of social, medical, psychological, and educational records of child

Sec. 4. The person, licensed child placing agency, or local office shall provide:

(1) the prospective adoptive parent or the adoptive parent; and

(2) upon request, an adoptee who:

(A) is at least twenty-one (21) years of age; and

(B) provides proof of identification;

with a summary of other existing social, medical, psychological, and educational records concerning the child of which the person, agency, or local office has knowledge but does not have possession. If requested by a prospective adoptive parent, an adoptive parent, or an adoptee, the person, agency, or local office shall attempt to provide the prospective adoptive parent, the adoptive parent, or the adoptee with a copy of any social, medical, psychological, or educational record that is not in the possession of the person, agency, or local office, after identifying information has been excluded.

As added by P.L.1-1997, SEC.11. Amended by P.L.197-1997, SEC.24; P.L.100-2005, SEC.4; P.L.1-2006, SEC.498; P.L.131-2009, SEC.24; P.L.162-2011, SEC.19; P.L.128-2012, SEC.61.

IC 31-19-17-5

Information of social, medical, psychological, and educational records concerning child for adoption granted before July 1, 1993; excluding information identifying birth parent

Sec. 5. (a) This section applies to an adoption that is granted before July 1, 1993.

(b) Upon the request of an adoptee who:

(1) is at least twenty-one (21) years of age; and

(2) provides proof of identification;

a person, a licensed child placing agency, or a local office shall provide to the adoptee available information of social, medical, psychological, and educational records and reports concerning the adoptee. The person, licensed child placing agency, or local office shall exclude from the records information that would identify the birth parents unless an adoptee already knows the identity of the birth parents.

As added by P.L.100-2005, SEC.5. Amended by P.L.1-2006, SEC.499; P.L.58-2009, SEC.27; P.L.131-2009, SEC.25; P.L.1-2010,

SEC.125; P.L.128-2012, SEC.62.

IC 31-19-18

Chapter 18. Establishment of Adoption History Program Administered by State Registrar; Adoption History Fund

IC 31-19-18-1

Administration of adoption history program

Sec. 1. The state registrar shall administer the adoption history program provided for in this chapter, IC 31-19-19 through IC 31-19-23, IC 31-19-25, and IC 31-19-25.5.

As added by P.L.1-1997, SEC.11. Amended by P.L.191-2011, SEC.14.

IC 31-19-18-2

Transmission of identifying and nonidentifying information; storage; affirmation

Sec. 2. (a) The following persons may transmit identifying information and nonidentifying information to the state registrar for inclusion with the adoption history:

(1) An adoptee who is an adult.

(2) A birth parent.

(3) An adoptive parent.

(4) A pre-adoptive sibling who is at least twenty-one (21) years of age.

(5) The spouse or relative of a deceased adoptee.

(6) The spouse or relative of a deceased birth parent.

(b) The state registrar shall store all information received under this section in a manner that is readily recoverable.

(c) Any transmission of information received under this section must include an affirmation by the person that:

(1) the information is true or that the person believes the information to be true; and

(2) the person is a person described in subsection (a).

As added by P.L.1-1997, SEC.11. Amended by P.L.58-2009, SEC.28; P.L.191-2011, SEC.15.

IC 31-19-18-3

Voluntary transmission of medical information; storage; affirmation

Sec. 3. (a) Any person may voluntarily transmit medical information to the state registrar for inclusion with the medical history.

(b) The state registrar shall store all information received under this section in a manner that makes the information readily recoverable.

(c) Any transmission of voluntary information must include an affirmation by the person that:

(1) the information is true; or

(2) the person believes the information is true.

As added by P.L.1-1997, SEC.11.

IC 31-19-18-4
Publication of availability of adoption history information; public service announcements

Sec. 4. (a) The state registrar shall publicize the availability of the adoption history information, including the availability of the information under this chapter and IC 31-19-19 through IC 31-19-25.5.

(b) The state registrar's publicity efforts must include periodic public service announcements regarding the availability of adoption history information.

As added by P.L.1-1997, SEC.11. Amended by P.L.191-2011, SEC.16.

IC 31-19-18-5
Rules; forms

Sec. 5. The state registrar:

(1) may adopt rules under IC 4-22-2; and

(2) shall prescribe forms necessary;

to implement this chapter, IC 31-19-12-5, and IC 31-19-19 through IC 31-19-25.5.

As added by P.L.1-1997, SEC.11. Amended by P.L.130-2005, SEC.10; P.L.191-2011, SEC.17.

IC 31-19-18-6
Adoption history fund

Sec. 6. (a) The adoption history fund is established for the purpose of carrying out this chapter and IC 31-19-19 through IC 31-19-25.5. The state registrar shall administer the fund.

(b) The expenses of administering the fund shall be paid from:

(1) money in the fund; or

(2) if revenues are insufficient, a supplemental appropriation.

(c) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

As added by P.L.1-1997, SEC.11. Amended by P.L.191-2011, SEC.18.

IC 31-19-18-7
Transmittal of false adoption history information

Sec. 7. A person who knowingly transmits false information to an adoption history commits a Class A misdemeanor.

As added by P.L.1-1997, SEC.11.

IC 31-19-19

Chapter 19. Confidentiality Requirements for Adoption History and Other Adoption Records

IC 31-19-19-0.5

Storing and maintaining adoption records or other adoption information

Sec. 0.5. (a) This section does not apply to a confidential intermediary appointed under IC 31-19-24.

(b) Except as provided in subsection (c) or (d), a person that is required to store, maintain, or release adoption records or other adoption information under IC 31-19-12-5, IC 31-19-17, IC 31-19-18, this chapter, or IC 31-19-20 through IC 31-19-25.5 shall store and maintain the adoption records or other adoption information for at least ninety-nine (99) years after the date the adoption was filed. Unless otherwise provided by law, the adoption records or other adoption information may be stored and maintained in an electronic or other format, including microfiche, microfilm, or a digital format.

(c) A person who transfers adoption records or other adoption information to the state registrar or a transferee agency in accordance with IC 31-19-12-5 is not required to comply with the storage or maintenance requirements of subsection (b).

(d) A person, including a court, who obtains custody of or jurisdiction over adoption records or other adoption information following the dissolution, sale, transfer, closure, relocation, or death of a person shall transfer the records or other information to the state registrar or a transferee agency in accordance with IC 31-19-12-5, unless the person wishes to store and maintain the records in accordance with subsection (b).

As added by P.L.42-2009, SEC.2. Amended by P.L.191-2011, SEC.19.

IC 31-19-19-1

Court files and records

Sec. 1. (a) The following items are confidential:

(1) A petition for adoption.

(2) Reports of the investigation made under IC 31-19-8-5 (or IC 31-3-1-4 before its repeal).

(3) All other papers filed in connection with a petition for adoption.

(4) The record of evidence of the hearing.

(5) The decree made and entered by the court, including decrees in foreign adoptions filed under IC 31-19-28 (or IC 31-3-1-10 before its repeal).

(b) The files and records of the court pertaining to the adoption proceedings:

(1) shall be kept in the custody of the clerk of the court; and

(2) are not open to inspection, except as provided in IC 31-19-13-2(2).

As added by P.L.1-1997, SEC.11.

IC 31-19-19-2
Agency files and records

Sec. 2. (a) All files and records pertaining to the adoption proceedings in:

(1) the local office;
(2) the department; or
(3) any of the licensed child placing agencies;

are confidential and open to inspection only as provided in IC 31-19-13-2(2), IC 31-19-17, this chapter, or IC 31-19-20 through IC 31-19-25.5.

(b) The files and records described in subsection (a), including investigation records under IC 31-19-8-5 (or IC 31-3-1-4 before its repeal):

(1) are open to the inspection of the court hearing the petition for adoption; and
(2) on order of the court, may be:
    (A) introduced into evidence; and
    (B) made a part of the record;

in the adoption proceeding.

As added by P.L.1-1997, SEC.11. Amended by P.L.197-1997, SEC.25; P.L.100-2005, SEC.6; P.L.145-2006, SEC.254; P.L.191-2011, SEC.20; P.L.128-2012, SEC.63.

IC 31-19-19-3
Adoption history information

Sec. 3. Notwithstanding any other law, the information located in the adoption history may not be disclosed under:

(1) IC 5-14-3; or
(2) any freedom of information:
    (A) legislation;
    (B) rules; or
    (C) practice.

As added by P.L.1-1997, SEC.11.

IC 31-19-19-4
Confidentiality of adoption papers, records, and information; disclosure procedures

Sec. 4. All papers, records, and information pertaining to the adoption, whether part of:

(1) the permanent record of the court; or
(2) a file in:
    (A) the division of vital records;
    (B) the department or local office;
    (C) a licensed child placing agency; or
    (D) a professional health care provider (as defined in IC 34-6-2-117);

are confidential and may be disclosed only in accordance with IC 31-19-17, this chapter, or IC 31-19-20 through IC 31-19-25.5.

As added by P.L.1-1997, SEC.11. Amended by P.L.1-1998, SEC.159; P.L.100-2005, SEC.7; P.L.145-2006, SEC.255; P.L.191-2011,

SEC.21; P.L.128-2012, SEC.64.

IC 31-19-19-5
Disclosure of confidential information; offense; discharge from public office

Sec. 5. (a) An employer or any person administering adoption records who recklessly, knowingly, or intentionally:

(1) discloses any confidential information relating to any adoption except as provided in IC 31-19-17, this chapter, or IC 31-19-20 through IC 31-19-25.5; or

(2) allows an employee to disclose any confidential information relating to any adoption except as provided in this chapter;

commits a Class A misdemeanor.

(b) If a public employee commits a violation described in subsection (a), the violation is cause for discharge.

As added by P.L.1-1997, SEC.11. Amended by P.L.191-2011, SEC.22.

IC 31-19-20

Chapter 20. Release of Medical History Information

IC 31-19-20-1

Release of medical history; supplementation

Sec. 1. The state registrar:

(1) shall release a copy of the medical history to any interested person;

(2) may release a copy of the medical history to any person who satisfies the registrar that the person has a legitimate need; and

(3) shall supplement the medical history with medical information received from any person.

As added by P.L.1-1997, SEC.11.

IC 31-19-20-2

Request for additional medical history information

Sec. 2. (a) Whenever the state registrar receives an inquiry for medical history information from an adoptee or adoptive parent and the state registrar reasonably believes that the medical history information available under section 1 of this chapter is incomplete, the state registrar shall request further medical history information concerning the adoptee from:

(1) the hospital where the adoptee was born; and

(2) the:

(A) licensed child placing agency;

(B) local office; and

(C) attorney;

that arranged the adoptee's adoptive placement.

(b) A hospital, a licensed child placing agency, a local office, or an attorney that receives a request for medical information under subsection (a) shall release medical history information concerning the adoptee to the state registrar.

(c) The state registrar shall release any additional medical history information received under subsection (b) to the adoptee or adoptive parent.

As added by P.L.1-1997, SEC.11. Amended by P.L.197-1997, SEC.26; P.L.128-2012, SEC.65.

IC 31-19-20-3

Fees; disposition

Sec. 3. (a) The state department of health may charge a reasonable fee for the state registrar's search for further medical history information under section 2(a) of this chapter or death certificates.

(b) Fees collected under this section shall be deposited in the adoption history fund established by IC 31-19-18-6 and must be used for the automation of adoption history information and death certificates and for improved service delivery.

As added by P.L.1-1997, SEC.11.

IC 31-19-20-4

Release of medical records by provider

Sec. 4. IC 31-19-19, this chapter, and IC 31-19-21 through IC 31-19-25.5 do not restrict a provider (as defined in IC 16-18-2-295) from releasing medical records to an attorney or agency arranging an adoption if the provider receives the appropriate authorization under IC 16-39-1.

As added by P.L.1-1997, SEC.11. Amended by P.L.191-2011, SEC.23.

IC 31-19-21

Chapter 21. Consent to Release of Identifying Information

IC 31-19-21-1

Consent; contents

Sec. 1. (a) A person who has transmitted identifying or nonidentifying information under IC 31-19-18-2 may consent to the release of identifying information concerning the person in a signed writing.

(b) The consent described in subsection (a) must identify the persons to whom the information may be released.

As added by P.L.1-1997, SEC.11.

IC 31-19-21-2

Modification or withdrawal of consent

Sec. 2. A consent made under this chapter (or IC 31-3-4-27 before its repeal) may be:

(1) withdrawn; or

(2) modified;

in a signed writing.

As added by P.L.1-1997, SEC.11.

IC 31-19-21-3

Manner of release of identifying and nonidentifying information

Sec. 3. A holder of information that receives a consent made under this chapter (or IC 31-3-4-27 before its repeal) may release identifying and nonidentifying information only in conformity with:

(1) the last version of the consent filed with the holder; and

(2) IC 31-19-22 and IC 31-19-24 through IC 31-19-25.5.

As added by P.L.1-1997, SEC.11. Amended by P.L.191-2011, SEC.24.

IC 31-19-21-4

Release after consenting person's death

Sec. 4. A consenting person may restrict the consent to the release of the information only after the consenting person's death. The holder of the information may release the information in conformity with the consent only if proof of the consenting person's death is submitted to the holder.

As added by P.L.1-1997, SEC.11.

IC 31-19-21-5

Errors in execution of consent form

Sec. 5. The state registrar may contact a person who submits a written consent under this chapter that is:

(1) incompletely; or

(2) inaccurately;

executed to inform the person regarding the error in the execution of the consent form.

As added by P.L.1-1997, SEC.11.

IC 31-19-21-6
Storage and indexing of consents

Sec. 6. The following persons shall provide for the storage and indexing of consents made under this chapter to carry out IC 31-19-22 and IC 31-19-24 through IC 31-19-25.5:

(1) The state registrar.
(2) The department.
(3) County offices of family and children.
(4) Licensed child placing agencies.
(5) Professional health care providers (as defined in IC 34-6-2-117).
(6) Courts.

As added by P.L.1-1997, SEC.11. Amended by P.L.1-1998, SEC.160; P.L.145-2006, SEC.256; P.L.191-2011, SEC.25.

IC 31-19-21-7
Sending copy of consent and withdrawal or modification of consent to state registrar

Sec. 7. The following persons shall send a copy of a consent for the release of identifying information and any signed writing that withdraws or modifies a consent for the release of identifying information received by the person to the state registrar:

(1) The department.
(2) A local office.
(3) A licensed child placing agency.
(4) A professional health care provider (as defined in IC 34-6-2-117).
(5) An attorney.
(6) A court.

As added by P.L.191-2011, SEC.26. Amended by P.L.128-2012, SEC.66.

IC 31-19-22

Chapter 22. Release of Identifying Information

IC 31-19-22-1

Application

Sec. 1. This chapter applies to adoptions that are filed before January 1, 1994.

As added by P.L.1-1997, SEC.11. Amended by P.L.191-2011, SEC.27.

IC 31-19-22-2

Requirements for release of identifying information; release prohibited; request information; affidavit

Sec. 2. (a) Except as provided in section 3 of this chapter and subject to subsection (b) and section 12 of this chapter, the state registrar, the department, a local office, a licensed child placing agency, a professional health care provider, an attorney, and a court shall release identifying information in the person's possession only if:

(1) the information is requested by:

(A) an adoptee who is an adult;

(B) a birth parent;

(C) an adoptive parent;

(D) the spouse or relative of a deceased adoptee; or

(E) the spouse or relative of a deceased birth parent; and

(2) the following individuals have submitted a written consent under IC 31-19-21 (or IC 31-3-4-27 before its repeal) to the state registrar or the person from whom the identifying information is requested that allows the release of identifying information to the individual requesting the information:

(A) The adult adoptee.

(B) A birth parent.

(b) Except as provided under subsection (c), if an individual requests the release of identifying information under subsection (a) for an adoptee who is less than twenty-one (21) years of age, the state registrar, the department, a local office, a licensed child placing agency, a professional health care provider, an attorney, and a court may not release identifying information under this section unless the adoptee's adoptive parent has submitted a written consent for the release of identifying information.

(c) The state registrar, the department, a local office, a licensed child placing agency, a professional health care provider, an attorney, and a court may not release identifying information under this chapter if the request for the release of identifying information involves an adoptee to whom both of the following apply:

(1) The adoptee is less than twenty-one (21) years of age.

(2) The adoptee's name is on the list provided to the state department of health under IC 31-25-2-22.

(d) A licensed child placing agency, a professional health care provider, an attorney, and a court:

(1) may request that the state department of health search the list provided under IC 31-25-2-22 to determine whether an adoptee's name is on the list; and

(2) shall, at the time of the request, provide:

(A) the name of the adoptee at the time parental rights were terminated; and

(B) an affidavit under penalty of perjury affirming that the licensed child placing agency, professional health care provider, attorney, or court is seeking information regarding the adoptee for the purpose of providing identifying information under this chapter.

(e) Not later than five (5) days after the state department of health receives a request and an affidavit under subsection (d), the state department of health shall submit an affidavit to the child placing agency, professional health care provider, attorney, or court verifying whether the adoptee's name is on the list provided to the state department of health under IC 31-25-2-22.

As added by P.L.1-1997, SEC.11. Amended by P.L.1-1998, SEC.161; P.L.145-2006, SEC.257; P.L.191-2011, SEC.28; P.L.128-2012, SEC.67.

IC 31-19-22-3

Consent not required

Sec. 3. (a) The consent of a birth parent is not required for release of identifying information under this chapter if the individual requesting the release of the identifying information under section 2 of this chapter submits:

(1) a death certificate;

(2) an obituary; or

(3) any other form of evidence approved by the state department of health;

indicating that a birth parent is deceased to the person releasing the identifying information for each birth parent who is named on the adoptee's original birth certificate.

(b) The consent of an adoptee is not required for the release of identifying information under this chapter if the individual requesting the release of identifying information under section 2 of this chapter submits:

(1) the death certificate of the adoptee;

(2) an obituary for the adoptee; or

(3) any other form of evidence approved by the state department of health;

indicating that the adoptee is deceased to the person releasing the identifying information.

As added by P.L.1-1997, SEC.11. Amended by P.L.191-2011, SEC.29.

IC 31-19-22-4

Search of death certificates

Sec. 4. If an individual submits a request for the release of

identifying information under section 2 of this chapter, the state registrar shall search the death certificates in the state registrar's possession regarding the related adoptee or a birth parent:

(1) who has not submitted a consent for the release of information under IC 31-19-21; and

(2) whose consent is necessary before identifying information may be released to the individual.

As added by P.L.1-1997, SEC.11. Amended by P.L.191-2011, SEC.30.

IC 31-19-22-5
Repealed

(Repealed by P.L.191-2011, SEC.57.)

IC 31-19-22-6
Deceased nonconsenting adoptee or birth parent; release of identifying information

Sec. 6. If, upon searching the death certificates under section 4 of this chapter, the state registrar finds that the adoptee or birth parent who has not yet submitted a written consent is deceased, the state registrar shall inform the individual who submitted the request of the death and:

(1) may not release identifying information if additional consent is required by this chapter; and

(2) may release identifying information if additional consent is not required by this chapter.

As added by P.L.1-1997, SEC.11. Amended by P.L.191-2011, SEC.31.

IC 31-19-22-7
Request contact

Sec. 7. An individual listed in section 2(a)(1) of this chapter may contact the:

(1) attorney;

(2) licensed child placing agency; or

(3) local office;

who arranged the adoption to request that the attorney, agency, or local office contact the adoptee, birth parent, or adoptive parent whose consent is necessary before identifying information may be released under this chapter.

As added by P.L.1-1997, SEC.11. Amended by P.L.191-2011, SEC.32; P.L.128-2012, SEC.68.

IC 31-19-22-7.5
Contact and disclosure prohibited

Sec. 7.5. An attorney, a licensed child placing agency, and a local office may not contact an adoptee, a birth parent, or an adoptive parent or disclose identifying information upon a request under section 7 of this chapter if the request involves an adoptee to whom both of the following apply:

(1) The adoptee is less than twenty-one (21) years of age.
(2) The adoptee's name is on the list provided to the state department of health under IC 31-25-2-22.

As added by P.L.191-2011, SEC.33. Amended by P.L.128-2012, SEC.69.

IC 31-19-22-8
Contact; disclosure of identifying information; written consent

Sec. 8. (a) Except as provided in section 7.5 of this chapter and subject to section 12 of this chapter, an attorney, a licensed child placing agency, or a local office who contacts an adoptee, a birth parent, or an adoptive parent upon a request under section 7 of this chapter may not disclose identifying information unless the:

(1) adoptee who:
(A) is at least twenty-one (21) years of age gives written consent; or
(B) is less than twenty-one (21) years of age has the written consent of the adoptee's adoptive parents; and
(2) birth parent gives written consent;

to the release of identifying information by the attorney, licensed child placing agency, or local office.

(b) If:
(1) the:
(A) adoptee who is at least twenty-one (21) years of age; or
(B) adoptive parent of an adoptee who is less than twenty-one (21) years of age; and
(2) the birth parent;

consent to the release of identifying information but do not provide the consent in writing, the attorney, licensed child placing agency, or local office may inform the individual requesting the identifying information regarding the fact that an adoptee, birth parent, or adoptive parent has consented to the release of identifying information. The attorney, licensed child placing agency, or local office may inquire as to whether the adoptee, birth parent, or adoptive parent, whose consent is still needed before identifying information may be released, is interested in participating in the adoption registry under IC 31-19-18 through IC 31-19-21, this chapter, IC 31-19-23 through IC 31-19-24, and IC 31-19-25.5.

As added by P.L.1-1997, SEC.11. Amended by P.L.58-2009, SEC.29; P.L.191-2011, SEC.34; P.L.128-2012, SEC.70.

IC 31-19-22-9
Repealed

(Repealed by P.L.191-2011, SEC.57.)

IC 31-19-22-10
Access to information by adoptee

Sec. 10. This chapter does not prohibit an adoptee who is at least twenty-one (21) years of age from having access to identifying information as provided by IC 31-19-25 and IC 31-19-25.5.

As added by P.L.1-1997, SEC.11. Amended by P.L.191-2011, SEC.35.

IC 31-19-22-11
Fee for services; fee for actual expenses

Sec. 11. (a) An attorney, a licensed child placing agency, or a local office may charge a reasonable fee for services performed or actual expenses incurred under section 8 of this chapter.

(b) The following persons may charge a reasonable fee for actual expenses incurred in complying with this chapter and IC 31-19-23:

(1) A licensed child placing agency.
(2) The court.
(3) The department.
(4) A local office.
(5) A professional health care provider.
(6) An attorney.
(7) The state department of health.

As added by P.L.1-1997, SEC.11. Amended by P.L.191-2011, SEC.36; P.L.128-2012, SEC.71.

IC 31-19-22-12
Client consent required for release of identifying information by attorney; court order

Sec. 12. (a) An attorney may release identifying information under this chapter only if the client represented by the attorney in the adoption has submitted a written consent to the release of identifying information to the individual requesting the release of identifying information.

(b) If a client described under subsection (a) is deceased or otherwise unavailable, the identifying information in the attorney's possession may be released only under a court order issued in a proceeding under IC 31-19-24.

As added by P.L.191-2011, SEC.37.

IC 31-19-23

Chapter 23. Release of Nonidentifying Information

IC 31-19-23-1

Entities required to release nonidentifying information

Sec. 1. The following persons shall release nonidentifying information concerning an adoption in the entity's possession to any person described in IC 31-19-18-2(a) upon request:

(1) The state registrar.
(2) The department.
(3) A local office.
(4) A licensed child placing agency.
(5) A professional health care provider (as defined in IC 34-6-2-117).
(6) The attorney who arranged the adoption.
(7) A court.

As added by P.L.1-1997, SEC.11. Amended by P.L.1-1998, SEC.162; P.L.145-2006, SEC.258; P.L.128-2012, SEC.72.

IC 31-19-23-2

Access to nonidentifying adoption information regarding child in need of services

Sec. 2. (a) This section applies to an adopted child if:

(1) the local office; or
(2) the prosecuting attorney;

has filed a petition alleging that the child is a child in need of services under IC 31-34-1.

(b) The:

(1) local office;
(2) child's guardian ad litem or court appointed special advocate; and
(3) juvenile court;

may have access to nonidentifying adoption information regarding the child.

As added by P.L.1-1997, SEC.11. Amended by P.L.128-2012, SEC.73.

IC 31-19-24

Chapter 24. Court Proceeding to Request Release of Adoption History Information Not Available From State Registrar

IC 31-19-24-1

Petitions; contents

Sec. 1. (a) Any interested person may file a petition with any court with probate jurisdiction in Indiana requesting the release of:

(1) medical information;

(2) nonidentifying information; or

(3) identifying information;

that is not available through the state registrar or not allowed to be released by the state registrar.

(b) The contents of a petition must include to the best knowledge of the petitioner the following:

(1) The full name and current address of the petitioner.

(2) The adopted person's:

(A) full name;

(B) sex;

(C) date of birth;

(D) place of birth, if known; and

(E) current address, if known.

(3) The county of the adoption proceeding, if known.

(4) The name and address of the agency that placed the adopted person, if known.

(5) The full name and current address of the petitioners for adoption, if any.

(6) The date of the adoption proceeding, if known.

(7) The full name and current address of the birth parents, if known.

(8) The nature of the:

(A) medical;

(B) identifying; or

(C) nonidentifying;

information being sought.

(9) An affirmation:

(A) by an attending physician, if medical information is sought, that indicates:

(i) the nature of the illness;

(ii) that the illness is believed to be hereditary or congenital; or

(iii) why the information to be sought or shared is necessary for diagnosis or treatment of any person;

(B) by the petitioner, if medical, identifying, or nonidentifying information is sought, that sets forth the reasons why the release of the information may be beneficial to the welfare of the adoptee, a birth parent, a relative of an adoptee, or a relative of a birth parent; and

(C) that the medical, identifying, or nonidentifying information sought:

(i) is not available through the state registrar; or
(ii) is not allowed to be released by the state registrar.
(10) A statement by the petitioner that the petitioner agrees to the payment of:
(A) a reasonable fee for the services of a confidential intermediary if a confidential intermediary is appointed under section 2 of this chapter; and
(B) reasonable fees and any actual expenses of an attorney, a child placing agency, or a professional health care provider (as defined in IC 34-6-2-117) that is requested to search its records and release information under sections 2 through 11 of this chapter.
(11) A description of the medical, identifying, or nonidentifying information being sought.

As added by P.L.1-1997, SEC.11. Amended by P.L.196-1997, SEC.12; P.L.1-1998, SEC.163; P.L.191-2011, SEC.38; P.L.97-2013, SEC.2.

IC 31-19-24-2
Notice to state registrar; opportunity to respond; appointment of confidential intermediary; requirements

Sec. 2. Upon the filing of a petition under section 1 of this chapter, the court shall:
(1) establish that the state registrar:
(A) has been served with notice of the petitioner's request for disclosure of information; and
(B) has been afforded the opportunity to respond to the petitioner's request for disclosure of information; and
(2) appoint a confidential intermediary after consultation with the state registrar or the state registrar's designee if the:
(A) requirements of subdivision (1) are complied with; and
(B) petitioner has shown:
(i) an emergency medical need;
(ii) good cause relating to the welfare of the adoptee, a birth parent, a relative of an adoptee, or a relative of a birth parent;
(iii) an interest in having contact with a pre-adoptive sibling; or
(iv) if the petitioner is a pre-adoptive sibling, an interest in having contact with an adoptee.

A confidential intermediary appointed under subdivision (2) may be any person who the court reasonably believes is competent to carry out the responsibilities described in section 3 of this chapter and meets the qualifications under section 14 of this chapter.

As added by P.L.1-1997, SEC.11. Amended by P.L.196-1997, SEC.13; P.L.191-2011, SEC.39; P.L.97-2013, SEC.3.

IC 31-19-24-3
Requirements of court; order to confidential intermediary

Sec. 3. Whenever the court appoints a confidential intermediary

under section 2(2) of this chapter, the court shall do the following:

(1) Consider:

(A) the highly emotional and personal issues relating to adoption;

(B) the privacy rights of both birth parents, adoptees, and pre-adoptive siblings;

(C) the reasons the medical, identifying, or nonidentifying information is being sought under section 1 of this chapter; and

(D) any irreparable harm to a birth parent, an adoptee, or a pre-adoptive sibling that may arise if appropriate consideration is not given to the issues described in clauses (A) through (C).

(2) Provide the confidential intermediary with an order authorizing the confidential intermediary to search certain records that may include:

(A) the division of public health statistics;

(B) the department or local office;

(C) any licensed child placing agency; or

(D) any professional health care provider (as defined in IC 34-6-2-117).

An order under this subdivision must specify the information to be sought by the confidential intermediary.

(3) Specify the direct contact, if any, that a confidential intermediary may have with any person from whom the medical, identifying, or nonidentifying information is being sought, such as providing that the confidential intermediary may only inform the person of the existence of the adoption history program administered by the state registrar under IC 31-19-18 through IC 31-19-23, this chapter, IC 31-19-25, and IC 31-19-25.5.

(4) Specify the limitations, if any, that the court considers necessary to prevent the confidential intermediary's search under this chapter from resulting in harm to a birth parent, an adoptee, or a pre-adoptive sibling.

(5) Require the confidential intermediary to affirm under oath that the confidential intermediary agrees to act in good faith and perform its responsibilities in accordance with sections 2 through 9 of this chapter.

(6) Instruct the confidential intermediary to act as quickly as possible.

As added by P.L.1-1997, SEC.11. Amended by P.L.196-1997, SEC.14; P.L.1-1998, SEC.164; P.L.145-2006, SEC.259; P.L.191-2011, SEC.40; P.L.128-2012, SEC.74.

IC 31-19-24-4

Search for information and persons

Sec. 4. The confidential intermediary shall:

(1) make complete and reasonable efforts to locate the medical, identifying, or nonidentifying information;

(2) attempt to locate any person necessary to obtain the medical, identifying, or nonidentifying information;
(3) inform the person contacted of the medical or other need set forth by the petitioner; and
(4) obtain the needed medical, identifying, or nonidentifying information.

As added by P.L.1-1997, SEC.11. Amended by P.L.196-1997, SEC.15.

IC 31-19-24-5
Fee for cost of search

Sec. 5. The confidential intermediary may charge a reasonable fee for the cost of making a search under section 4 of this chapter.

As added by P.L.1-1997, SEC.11. Amended by P.L.196-1997, SEC.16.

IC 31-19-24-6
Confidentiality of communications; manner of communicating

Sec. 6. All communications under this chapter are confidential, and any communication shall be made by a personal contact by the confidential intermediary.

As added by P.L.1-1997, SEC.11. Amended by P.L.196-1997, SEC.17.

IC 31-19-24-7
Confidentiality of information filed with court

Sec. 7. Information released to the confidential intermediary under this chapter shall be filed with the court in a manner designed to:
(1) protect the identity and current location of the person releasing the information; and
(2) preserve the confidentiality of the medical, identifying, or nonidentifying information that the confidential intermediary obtains.

As added by P.L.1-1997, SEC.11. Amended by P.L.196-1997, SEC.18.

IC 31-19-24-8
Court ordered release of information

Sec. 8. (a) If a person does not agree to release medical, identifying, or nonidentifying information through the confidential intermediary, the court may order the release of the requested medical, identifying, or nonidentifying information after considering any information regarding the person's refusal to release the requested information to the confidential intermediary.

(b) If the court orders the release of the information under this section, the court, upon receipt of the court ordered information, shall follow the procedures described under section 10 of this chapter.

As added by P.L.1-1997, SEC.11. Amended by P.L.196-1997, SEC.19.

IC 31-19-24-9
Reports and supporting documents of guardian or court appointed special advocate; confidentiality; release of information

Sec. 9. (a) Whenever a confidential intermediary obtains information under this chapter, the confidential intermediary shall submit to the court:

(1) a written report; and

(2) any supporting documents;

describing the information obtained by the confidential intermediary.

(b) The information that the confidential intermediary submits to the court under this section:

(1) is confidential; and

(2) may be released to the petitioner only upon a court order under section 10 of this chapter.

As added by P.L.1-1997, SEC.11. Amended by P.L.196-1997, SEC.20.

IC 31-19-24-10
Review and release of court ordered information

Sec. 10. The court shall review the medical, identifying, or nonidentifying information submitted under section 9 of this chapter. The court may order the release of the information to the petitioner under this section to the extent that the court determines is just based upon the emergency medical need or good cause shown under section 2(2)(B) of this chapter.

As added by P.L.1-1997, SEC.11.

IC 31-19-24-11
Imminent threat of death or serious bodily injury; proceedings without written pleadings

Sec. 11. If an imminent threat of death or serious bodily injury exists, the court may conduct the proceedings authorized by this chapter without written pleadings.

As added by P.L.1-1997, SEC.11.

IC 31-19-24-12
Immunity of confidential intermediary

Sec. 12. (a) A confidential intermediary discharging in good faith the confidential intermediary's responsibilities under this chapter is immune from all civil and criminal liability that otherwise might result.

(b) The provisions regarding the representations, duties, and appointment of a guardian ad litem or court appointed special advocate described under IC 31-32-3 apply to a confidential intermediary appointed under this chapter.

As added by P.L.1-1997, SEC.11. Amended by P.L.196-1997, SEC.21.

IC 31-19-24-13
Closed proceedings

Sec. 13. All hearings held in proceedings under this chapter shall be held in closed court without admittance of any person other than:

(1) essential officers of the court;

(2) the parties;

(3) witnesses;

(4) counsel;

(5) persons who have not previously consented to the adoption but are required to consent to the adoption; and

(6) representatives of the agencies present to perform their official duties.

As added by P.L.1-1997, SEC.11.

IC 31-19-24-14

Appointment of confidential intermediary; requirements

Sec. 14. A court may only appoint a person to serve as a confidential intermediary under this chapter if the person:

(1) agrees to abide by the order of the court under section 3 of this chapter without advocating either the opening or maintaining the confidentiality of adoption records;

(2) does not have a personal relationship with either the petitioner or the person from whom the medical, identifying, or nonidentifying information is being sought; and

(3) agrees to comply with the limitations set by the court in searching for the information specified by the court under section 3(4) of this chapter.

As added by P.L.196-1997, SEC.22.

IC 31-19-24-15

Breach of confidentiality

Sec. 15. A person who knowingly or intentionally releases information in violation of sections 2 through 11 of this chapter commits a Class A misdemeanor.

As added by P.L.196-1997, SEC.23.

IC 31-19-24-16

Penalty

Sec. 16. Failure of the confidential intermediary appointed under this chapter to comply with a court order under sections 2 through 11 of this chapter is punishable as contempt of court.

As added by P.L.196-1997, SEC.24. Amended by P.L.2-1998, SEC.77.

IC 31-19-25

Chapter 25. Release of Identifying Information for Adoptions Filed After December 31, 1993; Requests for Information Concerning Pre-Adoptive Siblings

IC 31-19-25-1

Application of chapter

Sec. 1. This chapter applies to adoptions that are filed after December 31, 1993.

As added by P.L.1-1997, SEC.11.

IC 31-19-25-2

Requirements for release of identifying information

Sec. 2. (a) The following may request the release of identifying information:

(1) An adoptee who is an adult.
(2) A birth parent.
(3) An adoptive parent.
(4) The spouse or relative of a deceased adoptee.
(5) The spouse or relative of a deceased birth parent.

(b) Except as provided in sections 3, 15, and 17 of this chapter and subject to sections 2.5 and 21 of this chapter, upon a request for the release of identifying information under subsection (a):

(1) the state registrar;
(2) the department;
(3) a local office;
(4) a licensed child placing agency;
(5) a professional health care provider;
(6) the attorney who arranged the adoption; and
(7) a court;

shall release identifying information in the person's possession to the individual requesting the release of identifying information only if the adoptee has submitted a written consent under IC 31-19-21 to the state registrar or the person from whom the release of identifying information is requested for release of identifying information to the individual requesting the release of identifying information.

As added by P.L.1-1997, SEC.11. Amended by P.L.1-1998, SEC.165; P.L.145-2006, SEC.260; P.L.191-2011, SEC.41; P.L.128-2012, SEC.75.

IC 31-19-25-2.5

Release prohibited; request information; affidavit

Sec. 2.5. (a) Except as provided in subsection (b), if an individual requests the release of identifying information under section 2 of this chapter regarding an adoptee who is less than twenty-one (21) years of age, the state registrar, the department, a local office, a licensed child placing agency, a professional health care provider, an attorney, and a court may not release identifying information under this chapter unless the adoptee's adoptive parent has submitted a written consent for the release of identifying information.

(b) The state registrar, the department, a local office, a licensed child placing agency, a professional health care provider, an attorney, and a court may not release identifying information under this chapter if the request for the release of identifying information involves an adoptee to whom both of the following apply:

(1) The adoptee is less than twenty-one (21) years of age.

(2) The adoptee's name is on the list provided to the state department of health under IC 31-25-2-22.

(c) A licensed child placing agency, a professional health care provider, an attorney, and a court:

(1) may request that the state department of health search the list provided under IC 31-25-2-22 to determine whether an adoptee's name is on the list; and

(2) shall, at the time of the request, provide:

(A) the name of the adoptee at the time parental rights were terminated; and

(B) an affidavit under penalty of perjury affirming that the licensed child placing agency, professional health care provider, attorney, or court is seeking information regarding the adoptee for the purpose of providing identifying information under this chapter.

(d) Not later than five (5) days after the state department of health receives a request and affidavit under subsection (c), the state department of health shall submit an affidavit to the child placing agency, professional health care provider, attorney, or court verifying whether the adoptee's name is on the list provided under IC 31-25-2-22.

As added by P.L.191-2011, SEC.42. Amended by P.L.128-2012, SEC.76.

IC 31-19-25-3

Nonrelease form; filing; duration; withdrawal; effect of consent

Sec. 3. (a) A birth parent may restrict access to identifying information concerning the birth parent by filing a written nonrelease form with the state registrar that evidences the birth parent's lack of consent to the release of identifying information under this chapter.

(b) A person who arranges for the signing of a consent to adoption shall provide the birth parent with a nonrelease form and the explanation described in IC 31-19-9-6.

(c) Except as provided in sections 15 and 17 of this chapter, the following persons may not release any identifying information concerning a birth parent to an individual requesting the release of identifying information under section 2 of this chapter if a nonrelease form is in effect at the time of the request for identifying information:

(1) The state registrar.

(2) The department.

(3) A local office.

(4) A licensed child placing agency.

(5) A professional health care provider.

(6) The attorney who arranged the adoption.

(7) A court.

(d) Except as provided in subsection (f), the nonrelease form filed under this section:

(1) remains in effect during the period indicated by the individual submitting the form;

(2) is renewable; and

(3) may be withdrawn at any time by the individual who submitted the form.

(e) The nonrelease form is no longer in effect if the birth parent consents in writing to the release of identifying information and has not withdrawn that consent.

(f) A nonrelease form is no longer in effect if the birth parent who filed the nonrelease form is deceased unless the nonrelease form specifically states that the nonrelease form remains in effect after the birth parent's death.

As added by P.L.1-1997, SEC.11. Amended by P.L.145-2006, SEC.261; P.L.58-2009, SEC.30; P.L.191-2011, SEC.43; P.L.128-2012, SEC.77.

IC 31-19-25-3.5

Sending copy of nonrelease form to state registrar

Sec. 3.5. The following persons shall send a copy of a written nonrelease form received by the person from a birth parent to the state registrar:

(1) The department.

(2) A local office.

(3) A licensed child placing agency.

(4) A professional health care provider.

(5) An attorney.

(6) A court.

As added by P.L.191-2011, SEC.44. Amended by P.L.128-2012, SEC.78.

IC 31-19-25-4

Nonrelease form; contents

Sec. 4. The state registrar shall prescribe the nonrelease form described in section 3 of this chapter. In prescribing the nonrelease form, the state registrar shall devise the form in a manner that indicates that the birth parent's lack of consent to the release of identifying information is to remain in effect for the time indicated by the birth parent. The form must:

(1) contain a space in which the birth parent may check "yes" or "no" concerning whether the individual submitting the form desires the state registrar to send notice to the birth parent's most recent address at the time that the form lapses in cases in which the birth parent has not chosen to prevent the nonrelease form from lapsing; and

(2) indicate that the birth parent may choose to prevent the nonrelease form from lapsing.

As added by P.L.1-1997, SEC.11. Amended by P.L.191-2011,

SEC.45.

IC 31-19-25-5
Notice before lapse of nonrelease form

Sec. 5. Except as provided under section 4 of this chapter, the state registrar shall mail a notice to a birth parent who submits a nonrelease form under section 3 of this chapter within ninety (90) days before the birth parent's nonrelease form lapses. The notice:

(1) shall be mailed to the most recent address of the birth parent that has been supplied to the state registrar; and

(2) must indicate:

(A) the date upon which the form is to lapse; and

(B) that the nonrelease form is renewable.

As added by P.L.1-1997, SEC.11.

IC 31-19-25-6
Repealed

(Repealed by P.L.191-2011, SEC.57.)

IC 31-19-25-7
Repealed

(Repealed by P.L.191-2011, SEC.57.)

IC 31-19-25-8
Repealed

(Repealed by P.L.191-2011, SEC.57.)

IC 31-19-25-9
Repealed

(Repealed by P.L.191-2011, SEC.57.)

IC 31-19-25-10
Repealed

(Repealed by P.L.191-2011, SEC.57.)

IC 31-19-25-11
Storage and indexing of requests and nonrelease forms

Sec. 11. The state registrar shall provide for the storage and indexing of requests and nonrelease forms under this chapter.

As added by P.L.1-1997, SEC.11.

IC 31-19-25-12
Errors in execution of forms

Sec. 12. The state registrar may contact an individual who submits a request form or nonrelease form that is incorrectly or incompletely executed to inform the individual regarding the error in the execution of the form.

As added by P.L.1-1997, SEC.11. Amended by P.L.191-2011, SEC.46.

IC 31-19-25-13
Fee for expenses

Sec. 13. (a) The following persons may charge a reasonable fee for actual expenses incurred in complying with this chapter:

(1) A licensed child placing agency.
(2) The court.
(3) The department.
(4) A local office.
(5) A professional health care provider.
(6) The state department of health, except as provided in subsection (b).

(b) The state department of health may not charge a fee for filing a nonrelease form under this chapter.

As added by P.L.1-1997, SEC.11. Amended by P.L.145-2006, SEC.263; P.L.128-2012, SEC.79.

IC 31-19-25-14
Repealed

(Repealed by P.L.191-2011, SEC.57.)

IC 31-19-25-15
Consent not required

Sec. 15. Except as provided in section 21 of this chapter, the consent of an adoptee is not required for the release of identifying information under this chapter if the individual requesting the release of identifying information under section 2 of this chapter submits:

(1) a death certificate;
(2) an obituary; or
(3) any other form of evidence approved by the state department of health;

indicating that the adoptee is deceased, to the person releasing the identifying information.

As added by P.L.191-2011, SEC.47.

IC 31-19-25-16
Search of death certificates

Sec. 16. If an individual submits a request for the release of identifying information under section 2 of this chapter, the state registrar shall search the death certificates in the state registrar's possession regarding:

(1) a related adoptee:
    (A) who has not submitted a consent for the release of information under IC 31-19-21; and
    (B) whose consent is necessary before identifying information may be released to the individual who has submitted the request; or
(2) a birth parent who has filed a written nonrelease form under section 3 of this chapter.

As added by P.L.191-2011, SEC.48.

IC 31-19-25-17
Deceased adoptee or birth parent; release of identifying information

Sec. 17. (a) If, upon searching the death certificates under section 16 of this chapter, the state registrar finds that an adoptee or a birth parent is deceased, the state registrar shall:

(1) inform the individual requesting the release of the identifying information under section 2 of this chapter of the death; and

(2) release the identifying information if additional consent is not required by this chapter.

(b) The state registrar may not release identifying information under subsection (a) concerning:

(1) a birth parent or adoptee if additional consent is required by this chapter; or

(2) a birth parent if a nonrelease form submitted by the birth parent specifically states that the nonrelease form remains in effect after the birth parent's death.

As added by P.L.191-2011, SEC.49.

IC 31-19-25-18
Request to contact adoptee

Sec. 18. An individual who submits a request for the release of identifying information under section 2 of this chapter may contact:

(1) a local office;

(2) a licensed child placing agency; or

(3) the attorney who arranged the adoption;

to request that the local office, the licensed child placing agency, or the attorney contact an adoptee whose consent is necessary before identifying information may be released under this chapter.

As added by P.L.191-2011, SEC.50. Amended by P.L.128-2012, SEC.80.

IC 31-19-25-18.5
Contact and disclosure prohibited

Sec. 18.5. An attorney, a licensed child placing agency, and a local office may not contact an adoptee, a birth parent, or an adoptive parent or disclose identifying information upon a request under section 18 of this chapter if the request involves an adoptee to whom both of the following apply:

(1) The adoptee is less than twenty-one (21) years of age.

(2) The adoptee's name is on the list provided to the state department of health under IC 31-25-2-22.

As added by P.L.191-2011, SEC.51. Amended by P.L.128-2012, SEC.81.

IC 31-19-25-19
Contact; disclosure of identifying information; written consent

Sec. 19. (a) Except as provided in section 18.5 of this chapter and subject to section 21 of this chapter, upon a request described under

section 18 of this chapter, a local office, a licensed child placing agency, or an attorney that contacts an adoptee may not disclose identifying information unless the adoptee:

(1) if the adoptee is at least twenty-one (21) years of age, gives written consent; or

(2) if the adoptee is less than twenty-one (21) years of age, has the written consent of the adoptee's adoptive parents;

to the release of identifying information by the local office, the licensed child placing agency, or the attorney.

(b) If:

(1) an adoptee who is at least twenty-one (21) years of age; or

(2) an adoptive parent of an adoptee who is less than twenty-one (21) years of age;

consents to the release of identifying information but does not provide the consent in writing, the local office, the licensed child placing agency, or the attorney may inform the birth parent regarding the fact that the adoptee or the adoptive parent has consented to the release of identifying information. The local office, the licensed child placing agency, or the attorney may inquire as to whether the adoptee or adoptive parent, whose consent is still needed before identifying information may be released, is interested in participating in the adoption registry under IC 31-19-18 through IC 31-19-24, this chapter, and IC 31-19-25.5.

As added by P.L.191-2011, SEC.52. Amended by P.L.6-2012, SEC.204; P.L.128-2012, SEC.82.

IC 31-19-25-20

Fee for services; fee for actual expenses

Sec. 20. (a) A local office, a licensed child placing agency, or an attorney may charge a reasonable fee for services performed or actual expenses incurred under section 19 of this chapter.

(b) The following persons may charge a reasonable fee for actual expenses incurred in complying with this chapter:

(1) A licensed child placing agency.

(2) The court.

(3) The department.

(4) A local office.

(5) A professional health care provider.

(6) An attorney.

(7) The state department of health.

As added by P.L.191-2011, SEC.53. Amended by P.L.128-2012, SEC.83.

IC 31-19-25-21

Client consent required for release of identifying information by attorney; court order

Sec. 21. (a) An attorney may release identifying information under this chapter only if the client that the attorney represented in the adoption has submitted a written consent to the release of the identifying information to the individual requesting the identifying

information.

(b) If a client described under subsection (a) is deceased or otherwise unavailable, the identifying information in the attorney's possession may be released only under a court order issued in a proceeding under IC 31-19-24.

As added by P.L.191-2011, SEC.54.

IC 31-19-25.5

Chapter 25.5. Requests for Information Concerning Adoptees and Pre-Adoptive Siblings

IC 31-19-25.5-1

Application

Sec. 1. Except as provided under sections 6 and 7 of this chapter, this chapter applies to:

(1) adoptees; and

(2) pre-adoptive siblings;

who are at least twenty-one (21) years of age.

As added by P.L.191-2011, SEC.55.

IC 31-19-25.5-2

Request release of information to adoptee or pre-adoptive sibling

Sec. 2. (a) An adoptee may submit a written request to the state registrar that includes the following:

(1) A statement that the adoptee has an interest in having contact with any pre-adoptive siblings of the adoptee.

(2) A statement that authorizes the state registrar to release the name and present location of the adoptee to any pre-adoptive sibling of the adoptee who submits a similar request.

(b) A pre-adoptive sibling of an adoptee may submit a written request to the state registrar that includes the following:

(1) A statement that the pre-adoptive sibling has an interest in having contact with the adoptee.

(2) A statement that authorizes the state registrar to release the name and present location of the pre-adoptive sibling to the adoptee if the adoptee has submitted a similar request.

As added by P.L.191-2011, SEC.55.

IC 31-19-25.5-3

Determine if adoptee and pre-adoptive sibling submitted similar requests

Sec. 3. (a) If an adoptee submits a written request to the state registrar under section 2 of this chapter, the state registrar shall determine whether the pre-adoptive sibling of the adoptee has submitted a similar request.

(b) If a pre-adoptive sibling of an adoptee submits a written request to the state registrar under section 2 of this chapter, the state registrar shall determine whether an adoptee has submitted a similar request.

As added by P.L.191-2011, SEC.55.

IC 31-19-25.5-4

Adoptions filed before January 1, 1994; requirements to release information of adoptee and pre-adoptive sibling; consent of birth parent; exception; search of death certificates; provide information of court proceeding to request release of adoption information

Sec. 4. (a) This section applies to adoptions that are filed before

January 1, 1994.

(b) Except as provided under subsections (d) and (e), the state registrar shall release the name and address of a pre-adoptive sibling to an adoptee who submits a written request under section 2 of this chapter if the following requirements are satisfied:

(1) The pre-adoptive sibling of the adoptee has submitted a written request under section 2 of this chapter.

(2) Each birth parent who is listed on the adoptee's original birth certificate has submitted a written consent for release of identifying information under IC 31-19-21.

(c) Except as provided under subsections (d) and (e), the state registrar shall release the name and address of an adoptee to a pre-adoptive sibling of the adoptee who submits a written request under section 2 of this chapter if the following requirements are satisfied:

(1) The adoptee has submitted a written request under section 2 of this chapter.

(2) Each birth parent who is listed on the adoptee's original birth certificate has submitted a written consent for release of identifying information under IC 31-19-21.

(d) The consent of a birth parent is not required for the release of information under this section if a person who submits a request under section 2 of this chapter provides:

(1) a death certificate;

(2) an obituary; or

(3) any other form of evidence approved by the state department of health;

indicating that a birth parent is deceased to the state registrar for each birth parent who is named on the adoptee's original birth certificate.

(e) The state registrar shall search the death certificates in the state registrar's possession regarding a birth parent if an adoptee and a pre-adoptive sibling of the adoptee have submitted written requests to be in contact. If the state registrar determines that a birth parent is deceased, the consent of the birth parent who is deceased is not required for the release of the information under this section.

(f) If the state registrar is prohibited under this section from releasing the name and address of a pre-adoptive sibling or an adoptee, the state registrar shall provide information on requesting the release of adoption information under IC 31-19-24 to the adoptee or pre-adoptive sibling requesting the release of the information.

As added by P.L.191-2011, SEC.55.

IC 31-19-25.5-5

Adoptions filed after December 31, 1993; requirements to release information of adoptee and pre-adoptive sibling; search of death certificates; nonrelease form filed by birth parent; provide information of court proceeding to request release of adoption information

Sec. 5. (a) This section applies to adoptions that are filed after December 31, 1993.

(b) Except as provided under subsections (d) and (f), the state registrar shall release the name and address of a pre-adoptive sibling to an adoptee who submits a written request under section 2 of this chapter if:

(1) the pre-adoptive sibling of the adoptee has submitted a written request under section 2 of this chapter; and

(2) a birth parent has not filed a written nonrelease form with the state registrar under IC 31-19-25.

(c) Except as provided under subsections (d) and (f), the state registrar shall release the name and address of an adoptee to a pre-adoptive sibling of the adoptee who submits a written request under section 2 of this chapter if:

(1) the adoptee has submitted a written request under section 2 of this chapter; and

(2) a birth parent has not filed a written nonrelease form with the state registrar under IC 31-19-25.

(d) Except as provided under subsection (g), the state registrar shall release information under this section if:

(1) both the adoptee and pre-adoptive sibling of the adoptee have submitted requests under section 2 of this chapter; and

(2) the adoptee or pre-adoptive sibling who requested information under section 2 of this chapter submits:

(A) a death certificate;

(B) an obituary; or

(C) any other form of evidence approved by the state department of health;

indicating that a birth parent is deceased to the state registrar for each birth parent who is named on the adoptee's original birth certificate.

(e) The state registrar shall search the death certificates in the state registrar's possession regarding a birth parent if:

(1) an adoptee and a pre-adoptive sibling of the adoptee have submitted written requests to be in contact; and

(2) a birth parent has filed a nonrelease form under IC 31-19-25.

(f) Except as provided under subsection (g), if, upon searching the death certificates under subsection (e), the state registrar finds that a birth parent is deceased, the state registrar shall:

(1) inform the adoptee and pre-adoptive sibling of the death; and

(2) release the information if additional consent is not required by this chapter.

(g) The state registrar may not release information under this section to an adoptee or pre-adoptive sibling if:

(1) additional consent is required under this chapter; or

(2) a nonrelease form submitted by a birth parent specifically states that the nonrelease form shall remain in effect after the birth parent's death.

(h) If the state registrar is prohibited from releasing the name and address of the pre-adoptive sibling under this section, the state registrar shall provide information on requesting the release of adoption information under IC 31-19-24 to the adoptee or

pre-adoptive sibling.
As added by P.L.191-2011, SEC.55. Amended by P.L.6-2012, SEC.205.

IC 31-19-25.5-6
Pre-adoptive sibling or adoptee less than 21 years of age; provide information of court proceeding to request release of adoption information; release of name and address prohibited

Sec. 6. (a) If:

(1) an adoptee submits a request under section 2 of this chapter; and

(2) the pre-adoptive sibling of the adoptee is less than twenty-one (21) years of age;

the state registrar shall notify the adoptee if the pre-adoptive sibling has been located and provide information on requesting the release of adoption information under IC 31-19-24 to the adoptee. However, the state registrar may not release the name or address of the pre-adoptive sibling to the adoptee.

(b) If:

(1) a pre-adoptive sibling submits a request under section 2 of this chapter; and

(2) the adoptee is less than twenty-one (21) years of age;

the state registrar shall notify the pre-adoptive sibling if the adoptee has been located and provide information on requesting the release of adoption information under IC 31-19-24 to the pre-adoptive sibling. However, the state registrar may not release the name or address of the adoptee to the pre-adoptive sibling.
As added by P.L.191-2011, SEC.55.

IC 31-19-25.5-7
Adoptive parents request information; request or consent of adult pre-adoptive sibling required; provide information of court proceeding to request release of adoption information

Sec. 7. (a) The adoptive parents of an adoptee who is less than twenty-one (21) years of age may submit a written request for information concerning the identity and present location of any pre-adoptive siblings of the adoptee.

(b) The state registrar shall release information concerning the name and present location of an adult pre-adoptive sibling to the adoptive parents if the pre-adoptive sibling submitted a written request under section 2 of this chapter.

(c) If a pre-adoptive sibling has not submitted a request under section 2 of this chapter, the state registrar shall do the following:

(1) Search the sealed adoption records for information concerning the pre-adoptive sibling.

(2) Release information to the adoptive parents only if the pre-adoptive sibling is at least twenty-one (21) years of age and consents to the release of the information.

(d) If a pre-adoptive sibling is less than twenty-one (21) years of age, the state registrar shall provide information on requesting the

release of adoption information under IC 31-19-24 to the adoptive parents.
As added by P.L.191-2011, SEC.55.

IC 31-19-25.5-8
Unable to identify or locate pre-adoptive sibling or deceased cannot be identified or located; providing information of court proceeding to request release of adoption information; release of information prohibited

Sec. 8. (a) The state registrar shall notify an adoptee who has submitted a request under section 2 of this chapter if:

(1) the state registrar is unable to identify or locate a pre-adoptive sibling; or

(2) a pre-adoptive sibling is deceased and had not submitted a request under section 2 of this chapter.

The state registrar shall provide information to the adoptee on requesting the release of adoption information under IC 31-19-24. However, the state registrar may not release any information that may identify the pre-adoptive sibling under this section.

(b) The state registrar shall notify a pre-adoptive sibling who has submitted a request under section 2 of this chapter if:

(1) the state registrar is unable to identify or locate an adoptee; or

(2) an adoptee is deceased and had not submitted a request under section 2 of this chapter.

The state registrar shall provide information to the pre-adoptive sibling on requesting the release of adoption information under IC 31-19-24. However, the state registrar may not release any information that may identify the adoptee under this section.
As added by P.L.191-2011, SEC.55.

IC 31-19-25.5-9
Withdrawal of request or consent

Sec. 9. A person may withdraw a:

(1) request by the person submitted under section 2 of this chapter; or

(2) consent by the person for the release of information under this chapter;

by submitting to the state registrar a statement signed by the person withdrawing the request or consent.
As added by P.L.191-2011, SEC.55.

IC 31-19-25.5-10
Errors in execution of request or consent

Sec. 10. The state registrar may contact a person who submits a request or consent under this chapter that is incorrectly or incompletely executed to inform the person regarding the error in the execution of the request or consent.
As added by P.L.191-2011, SEC.55.

IC 31-19-25.5-11
Fee for actual expenses

Sec. 11. The state department of health may charge a reasonable fee for actual expenses incurred in complying with this chapter.

As added by P.L.191-2011, SEC.55.

IC 31-19-26
Repealed

(Repealed by P.L.146-2008, SEC.806.)

IC 31-19-26.5
Chapter 26.5. Adoption Subsidies

IC 31-19-26.5-0.2
Application of certain amendments to prior law

Sec. 0.2. The amendments made to IC 31-3-1-4 and IC 31-3-3-2 (before their repeal) by P.L.98-1990 apply to a petition for adoption that:

(1) seeks the payment of a subsidy; and
(2) is filed after June 30, 1990.

As added by P.L.220-2011, SEC.505.

IC 31-19-26.5-1
"Adoption subsidy"

Sec. 1. As used in this chapter, "adoption subsidy" means payments by the department to an adoptive parent of a child with special needs to assist with the cost of care of the child:

(1) after a final decree of adoption of the child has been entered under IC 31-19-11; and
(2) during the time the child is residing with and supported by the adoptive parent or parents.

As added by P.L.146-2008, SEC.562.

IC 31-19-26.5-2
"Child with special needs"

Sec. 2. As used in this chapter, "child with special needs" means a child who:

(1) is a hard to place child; and
(2) meets the requirements of a special needs child, as specified in 42 U.S.C. 673(c) and the rules of the department applicable to those requirements.

As added by P.L.146-2008, SEC.562.

IC 31-19-26.5-3
Conditions for payment of adoption subsidies

Sec. 3. The department may make payments of adoption subsidy under this chapter for the benefit of a child with special needs if the department has:

(1) either:
    (A) entered into a written agreement with the adoptive parent or parents, before or at the time the court enters a final decree of adoption under IC 31-19-11-1, that specifies the amount, terms, and conditions of the adoption assistance payments; or
    (B) received a written final order in an administrative appeal in accordance with section 12(4) of this chapter concluding that the adoptive parents are eligible for a subsidy payable under this chapter and determining the appropriate subsidy amount;
(2) determined that sufficient funds are available in the adoption

assistance account of the state general fund, and can reasonably be anticipated to be available in that account during the term of the agreement or order, to make the payments as specified in the agreement or order; and

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

As added by P.L.146-2008, SEC.562.

IC 31-19-26.5-4

Priority for funding if funds are insufficient

Sec. 4. If the department determines that sufficient funds are not or will not be available in the adoption assistance account established under this chapter to make adoption subsidy payments to adoptive parents of all children who may be eligible for a subsidy payable under this chapter, the department may, in accordance with procedures established by rules:

(1) approve new adoption subsidy agreements only for the benefit of children for whom the department has wardship responsibility at the time the adoption petition is filed; or

(2) give priority to funding new adoption subsidy agreements for children for whom the department has had wardship responsibility.

As added by P.L.146-2008, SEC.562.

IC 31-19-26.5-5

Maximum amount of adoption subsidy

Sec. 5. The amount of adoption subsidy payments under this chapter may not exceed the amount that would be payable by the department for the monthly cost of care of the adopted child in a foster family home at the time:

(1) the adoption subsidy agreement is made; or

(2) the subsidy is payable under the terms of the agreement;

whichever is greater.

As added by P.L.146-2008, SEC.562.

IC 31-19-26.5-6

Additional payments under certain conditions

Sec. 6. (a) In addition to the adoption subsidy payments determined under section 3 of this chapter, the department may make additional payments for medical or psychological care or treatment of the adoptive child if all the following conditions exist:

(1) The child is a child with special needs, based in whole or in part on a physical, a mental, an emotional, or a medical condition that:

(A) existed before the filing of the adoption petition; or

(B) is causally related to specific conditions that existed or events that occurred before the filing of the adoption petition;

as determined by a physician or psychologist licensed in Indiana.

(2) The child's adoptive parent has applied to the department, in the form and manner specified by the department, for assistance in payment of the cost of special services that the child needs to remedy or ameliorate the condition or conditions identified in subdivision (1).

(3) The department determines that:

(A) the services required are not and will not be covered by either:

(i) private health insurance available to the child or adoptive parent; or

(ii) the Medicaid program in Indiana or the state where the child currently resides; and

(B) payment of the cost of the required services without assistance will cause a significant financial burden and hardship to the adoptive family.

(4) Sufficient funds are available in the adoption assistance account to cover the cost of additional assistance provided under this section.

(b) A determination by the department under this section is not subject to administrative review or appeal, unless specifically authorized by rule of the department under section 12(4) of this chapter, but is subject to judicial review as provided in IC 4-21.5-5.
As added by P.L.146-2008, SEC.562.

IC 31-19-26.5-7
Certain children eligible for Medicaid

Sec. 7. An adoptive child who is:

(1) a child with special needs based on a medical, a physical, a mental, or an emotional condition that existed before the filing of the adoption petition; and

(2) the beneficiary of an agreement for adoption subsidy under this chapter;

is eligible for Medicaid.
As added by P.L.146-2008, SEC.562.

IC 31-19-26.5-8
Submission of reports; modification or discontinuance of adoption subsidy payments

Sec. 8. (a) As a condition for continuation of subsidy payments under the agreement, the department may require the adoptive parents to submit a verified report, annually or at a time or times specified in the agreement or by rule, stating:

(1) the location of the parents;

(2) the location and condition of the child; and

(3) any additional information required by rule of the department or the agreement.

(b) The department may confirm the accuracy and veracity of the report from any reliable sources of information concerning the adoptive family and child, including any governmental or private agency that serves the area in which the child resides.

(c) If the report or information received by the department indicates a substantial change in the conditions that existed when the adoption subsidy agreement was signed, the department may, after notice to the adoptive parent or parents, modify or discontinue the adoption subsidy payments provided in the agreement.
As added by P.L.146-2008, SEC.562.

IC 31-19-26.5-9
Limits on term of adoption subsidy agreement

Sec. 9. (a) Except as provided in this section, the term of any adoption subsidy agreement under this chapter, including any extension of the original term, ends when any of the following events occurs:

(1) The child becomes eighteen (18) years of age.
(2) The child becomes emancipated.
(3) The adoptive parent or parents are no longer providing financial support to the child.
(4) The child dies.
(5) The child's adoption is terminated.

(b) The department may continue the adoption subsidy payments, in amounts determined by agreement among the department, the child, and the adoptive parents, during a time after the child becomes eighteen (18) years of age and before the child becomes twenty-one (21) years of age if:

(1) either:
(A) the child is enrolled in:
(i) a secondary school;
(ii) a public or private institution of higher education; or
(iii) a course of career or technical education leading to gainful employment; or
(B) the child needs continuing support and assistance for a physical, a medical, a mental, or an emotional condition that limits or prevents the child from becoming self-supporting; and
(2) the adoptive parent or parents:
(A) provide the principal source of financial support for the child's room, board, medical care, and other necessary living expenses; and
(B) are entitled to claim the child as a dependent on their federal or state income tax return or returns for the year in which the continued subsidy payments are made.
As added by P.L.146-2008, SEC.562.

IC 31-19-26.5-10
Adoption assistance account

Sec. 10. An adoption assistance account is established within the state general fund for the purpose of funding adoption subsidy payments under this chapter and the state's share of adoption assistance payments under 42 U.S.C. 673. The account consists of:

(1) amounts specifically appropriated to the department by the

general assembly for adoption assistance;

(2) amounts allocated by the department to the adoption assistance account from the funds available to the department; and

(3) any other amounts contributed or paid to the department for adoption assistance under this chapter.

As added by P.L.146-2008, SEC.562.

IC 31-19-26.5-11

Priority for payments required by court orders

Sec. 11. (a) In determining the availability of funds in the adoption assistance account for payments of adoption subsidies under this chapter, the department shall give priority to payments required by court orders for county adoption subsidies entered under IC 31-19-26 (before its repeal).

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

As added by P.L.146-2008, SEC.562.

IC 31-19-26.5-12

Adoption of rules

Sec. 12. The department shall adopt rules under IC 4-22-2, as needed, to carry out this chapter. The rules must include at least the following subjects:

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

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

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

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

(5) The procedure for determining availability of funds for new subsidy agreements and continuation of existing agreements or orders under this chapter and IC 31-19-26 (before its repeal), including any funding limitations or priorities as provided in sections 4 and 11 of this chapter.

As added by P.L.146-2008, SEC.562.

IC 31-19-26.5-13

Applicability of chapter

Sec. 13. This chapter does not affect:

(1) the legal status of an adoptive child;

(2) the rights and responsibilities of the adoptive parents as provided by law; or

(3) the eligibility of an adoptive child or adoptive parents for adoption assistance under Title IV-E of the Social Security Act

(42 U.S.C. 673), federal and state regulations applicable to the Title IV-E adoption assistance program, or determination of the amount of any assistance provided by the department through the Title IV-E adoption assistance program.

As added by P.L.146-2008, SEC.562.

IC 31-19-27

Chapter 27. Program for Adoption of Hard to Place Children

IC 31-19-27-1

Program to place hard to place children

Sec. 1. The department shall carry out a program to place hard to place children in suitable adoptive homes in cases in which restoration to the biological family is not possible or appropriate.

As added by P.L.1-1997, SEC.11. Amended by P.L.145-2006, SEC.264.

IC 31-19-27-1.5

Hard to place child; eligibility for adoption subsidies

Sec. 1.5. The department shall consider a child who is two (2) years of age or older a hard to place child for determining eligibility for state adoption subsidies.

As added by P.L.42-2009, SEC.3.

IC 31-19-27-2

Delegation of program

Sec. 2. The department may:

(1) delegate a part of the program to a local office; and

(2) deliver a program service through a contract with another person.

As added by P.L.1-1997, SEC.11. Amended by P.L.145-2006, SEC.265; P.L.128-2012, SEC.84.

IC 31-19-27-3

Powers of the department

Sec. 3. To carry out the program, the department may:

(1) cooperate with adoption efforts with:

(A) other states; and

(B) the administrative unit in the United States Department of Health and Human Services that is established under 42 U.S.C. 5113;

(2) exchange information with the:

(A) federal adoption and foster care data gathering and analysis system; and

(B) national adoption information exchange system;

(3) conduct, directly or by grant to or contract with public or private nonprofit agencies or organizations, an education and training program on adoption, and prepare, publish, and disseminate, directly or by grant to or contract with public or private nonprofit agencies and organizations, to all:

(A) interested parties;

(B) public and private agencies and organizations, including hospitals, health care and family planning clinics, and social services agencies; and

(C) governmental bodies;

information, education, and training materials regarding the

children who are available for adoption, adoption, and adoption assistance programs;

(4) provide directly, or by grant to or contract with public or private nonprofit agencies or organizations, including adoptive family groups and minority groups, technical assistance in planning, improving, developing, and carrying out programs and activities relating to adoption; and

(5) encourage involvement of:

(A) corporations; and

(B) small businesses;

in supporting adoption as a positive family strengthening option, including the establishment of adoption benefit programs for employees who adopt children.

As added by P.L.1-1997, SEC.11. Amended by P.L.145-2006, SEC.266.

IC 31-19-27-4

Money not reverting to state general fund

Sec. 4. Money appropriated to the program does not revert to the state general fund at the end of the state fiscal year.

As added by P.L.200-1999, SEC.24.

IC 31-19-28

Chapter 28. Adoption Decrees in Foreign Jurisdictions

IC 31-19-28-1

Foreign decrees; effect; name change

Sec. 1. Whenever a person is adopted outside Indiana, under the laws of the state, territory, or country where the adoption took place:

(1) the adoption decree:

(A) when filed with the clerk of the court of any county in Indiana; and

(B) when entered upon the order book of the court in open session;

has the same force and effect as if the adoption decree were made in accordance with this article;

(2) the adopted person:

(A) has the same rights; and

(B) is capable of taking by inheritance, upon the death of the adoptive parent, property located in Indiana;

as though the person had been adopted according to the laws of Indiana; and

(3) if a name other than a name in the adoption decree is requested, the adopted person shall take the name requested in a petition filed under this section.

As added by P.L.1-1997, SEC.11. Amended by P.L.130-2005, SEC.11.

IC 31-19-28-2

Full faith and credit

Sec. 2. Every decree of a court terminating parental rights issued by a court of any other jurisdiction within or outside the United States shall be recognized in Indiana so that the rights and obligations of the parties concerning matters within the jurisdiction of Indiana shall be determined as though the decree were issued by an Indiana court.

As added by P.L.1-1997, SEC.11.

IC 31-19-28-3

Consent

Sec. 3. Every consent to adoption taken in a jurisdiction outside Indiana that:

(1) is valid under the law in force in the state, territory, or country where the consent to adoption was taken; or

(2) would be valid if the consent to adoption had been taken in Indiana;

is a valid consent to an adoption.

As added by P.L.1-1997, SEC.11.

IC 31-19-28-4

Jurisdiction

Sec. 4. The court where an adoption proceeding is pending has

jurisdiction over a person if the person's consent to the adoption taken outside Indiana includes a provision that the person giving the consent to adoption submits to the jurisdiction of the Indiana courts. *As added by P.L.1-1997, SEC.11.*

IC 31-19-29

Chapter 29. Interstate Compacts on Adoption Assistance

IC 31-19-29-1

Legislative findings; purposes

Sec. 1. (a) The general assembly finds the following:

(1) Finding adoptive families for children, for whom state assistance is desirable pursuant to 42 U.S.C. 673, and assuring the protection of the interests of the children affected during the entire assistance period, require special measures when the adoptive parents move to other states or are residents of another state.

(2) Provision of medical and other necessary services for children, with state assistance, encounters special difficulties when the provision of services takes place in other states.

(b) The purposes of this chapter are the following:

(1) Authorize the department to enter into interstate agreements with agencies of other states for the protection of children on behalf of whom adoption assistance is being provided by the department.

(2) Provide procedures for interstate children's adoption assistance payments, including medical payments.

As added by P.L.1-1997, SEC.11. Amended by P.L.145-2006, SEC.267.

IC 31-19-29-2

Authorization of the department to enter compacts; definitions

Sec. 2. (a) The department is authorized to develop, participate in the development of, negotiate, and enter into one (1) or more interstate compacts on behalf of this state with other states to implement one (1) or more of the purposes set forth in this chapter. When so entered into, and for so long as it shall remain in force, such a compact shall have the force and effect of law.

(b) For the purposes of this chapter, the term "state" shall mean a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, or a territory or possession of or administered by the United States.

(c) For the purposes of this chapter, the term "adoption assistance state" means the state that is signatory to an adoption assistance agreement in a particular case.

(d) For the purposes of this chapter, the term "residence state" means the state of which the child is a resident by virtue of the residence of the adoptive parents.

As added by P.L.1-1997, SEC.11. Amended by P.L.145-2006, SEC.268.

IC 31-19-29-3

Mandatory provisions

Sec. 3. A compact entered into pursuant to the authority conferred

by this chapter shall have the following content:

(1) A provision making it available for joinder by all states.

(2) A provision or provisions for withdrawal from the compact upon written notice to the parties, but with a period of one (1) year between the date of the notice and the effective date of the withdrawal.

(3) A requirement that the protections afforded by or pursuant to the compact continue in force for the duration of the adoption assistance and be applicable to all children and their adoptive parents who on the effective date of the withdrawal are receiving adoption assistance from a party state other than the one in which they are resident and have their principal place of abode.

(4) A requirement that each instance of adoption assistance to which the compact applies be covered by an adoption assistance agreement in writing between the adoptive parents and the state child welfare agency of the state which undertakes to provide the adoption assistance, and further, that any such agreement be expressly for the benefit of the adopted child and enforceable by the adoptive parents, and the state agency providing the adoption assistance.

(5) Such other provisions as may be appropriate to implement the proper administration of the compact.

As added by P.L.1-1997, SEC.11.

IC 31-19-29-4

Permissive provisions

Sec. 4. A compact entered into pursuant to the authority conferred by this chapter may contain provisions in addition to those required pursuant to section 3 of this chapter, as follows:

(1) Provisions establishing procedures and entitlements to medical, developmental, child care, or other social services for the child in accordance with applicable laws, even though the child and the adoptive parents are in a state other than the one responsible for or providing the services or the funds to defray part or all of the costs thereof.

(2) Such other provisions as may be appropriate or incidental to the proper administration of the compact.

As added by P.L.1-1997, SEC.11.

IC 31-19-29-5

Medical assistance identification; conditions; payment of benefits; nonresidents; rules; violations

Sec. 5. (a) A child with special needs resident in this state who is the subject of an adoption assistance agreement with another state shall be entitled to receive a medical assistance identification from this state upon the filing in the local office for the county in which the child resides of a certified copy of the adoption assistance agreement obtained from the adoption assistance state. In accordance with rules of the department, the adoptive parents shall be required

at least annually to show that the agreement is still in force or has been renewed.

(b) The department shall consider the holder of a medical assistance identification pursuant to this section as any other holder of a medical assistance identification under the laws of this state and shall process and make payment on claims on account of such holder in the same manner and pursuant to the same conditions and procedures as for other recipients of medical assistance.

(c) The department shall provide coverage and benefits for a child who is in another state and who is covered by an adoption assistance agreement made by the department for the coverage or benefits, if any, not provided by the residence state. To this end, the adoptive parents acting for the child may submit evidence of payment for services or benefit amounts not payable in the residence state and shall be reimbursed therefor. However, there shall be no reimbursement for services or benefit amounts covered under any insurance or other third party medical contract or arrangement held by the child or the adoptive parents. The department shall adopt rules implementing this subsection. The additional coverages and benefit amounts provided pursuant to this subsection shall be for services to the cost of which there is no federal contribution, or which, if federally aided, are not provided by the residence state. Among other things, such rules shall include procedures to be followed in obtaining prior approvals for services in those instances where required for the assistance.

(d) A person who submits any claim for payment or reimbursement for services or benefits pursuant to this section or makes any statement in connection therewith, which claim or statement the maker knows or should know to be false, misleading, or fraudulent commits a Level 6 felony.

(e) The provisions of this section shall apply only to medical assistance for children under adoption assistance agreements from states that have entered into a compact with this state under which the other state provides medical assistance to children with special needs under adoption assistance agreements made by this state. All other children entitled to medical assistance pursuant to adoption assistance agreements entered into by this state shall be eligible to receive it in accordance with the laws and procedures applicable thereto.

As added by P.L.1-1997, SEC.11. Amended by P.L.145-2006, SEC.269; P.L.128-2012, SEC.85; P.L.158-2013, SEC.312.

IC 31-19-29-6

Federal aid

Sec. 6. Consistent with federal law, the department in connection with the administration of this chapter and any compact pursuant hereto shall include in any state plan made pursuant to the federal Adoption Assistance and Child Welfare Act of 1980 (P.L.96-272), Title IV-E and Title XIX of the federal Social Security Act, and any other applicable federal laws, the provision of adoption assistance and medical assistance for which the federal government pays some

or all of the cost. The department shall apply for and administer all relevant federal aid in accordance with law.

As added by P.L.1-1997, SEC.11. Amended by P.L.145-2006, SEC.270.

IC 31-20

ARTICLE 20. FAMILY LAW: HUMAN REPRODUCTION

IC 31-20-1

Chapter 1. Surrogate Agreements

IC 31-20-1-1

Public policy declaration

Sec. 1. The general assembly declares that it is against public policy to enforce any term of a surrogate agreement that requires a surrogate to do any of the following:

(1) Provide a gamete to conceive a child.

(2) Become pregnant.

(3) Consent to undergo or undergo an abortion.

(4) Undergo medical or psychological treatment or examination.

(5) Use a substance or engage in activity only in accordance with the demands of another person.

(6) Waive parental rights or duties to a child.

(7) Terminate care, custody, or control of a child.

(8) Consent to a stepparent adoption under IC 31-19 (or IC 31-3-1 before its repeal).

As added by P.L.1-1997, SEC.12.

IC 31-20-1-2

Void agreements

Sec. 2. A surrogate agreement described in section 1 of this chapter that is formed after March 14, 1988, is void.

As added by P.L.1-1997, SEC.12.

IC 31-20-1-3

Best interests of child; basis for court decisions

Sec. 3. After March 14, 1988, a court may not base a decision concerning the best interests of a child in any civil action solely on evidence that a surrogate and any other person:

(1) entered into a surrogate agreement; or

(2) acted in accordance with a surrogate agreement;

unless a party proves that the surrogate agreement was entered into through duress, fraud, or misrepresentation.

As added by P.L.1-1997, SEC.12.

IC 31-21

ARTICLE 21. UNIFORM CHILD CUSTODY JURISDICTION ACT

IC 31-21-1

Chapter 1. Applicability

IC 31-21-1-1

Inapplicability

Sec. 1. This article does not apply to:

(1) an adoption proceeding; or

(2) a proceeding pertaining to the authorization of emergency medical care for a child.

As added by P.L.138-2007, SEC.45.

IC 31-21-1-2

Child custody determination made by a tribe

Sec. 2. (a) A child custody proceeding pertaining to an Indian child, as defined in the Indian Child Welfare Act (25 U.S.C. 1901 et seq.), is not subject to this article to the extent that it is governed by the Indian Child Welfare Act.

(b) An Indiana court shall treat a tribe as if the tribe were a state of the United States for purposes of applying IC 31-21-3 through IC 31-21-5.

(c) A child custody determination made by a tribe under factual circumstances in substantial conformity with the jurisdictional standards of this article must be recognized and enforced under IC 31-21-6.

As added by P.L.138-2007, SEC.45.

IC 31-21-1-3

Child custody determination made by a foreign country

Sec. 3. (a) An Indiana court shall treat a foreign country as if the foreign country were a state of the United States for purposes of applying IC 31-21-3 through IC 31-21-5.

(b) Except as otherwise provided in subsection (c), a child custody determination made in a foreign country under factual circumstances in substantial conformity with the jurisdictional standard of this article must be recognized and enforced under IC 31-21-6.

(c) An Indiana court need not apply this article if the child custody law of a foreign country violates the fundamental principles of human rights.

As added by P.L.138-2007, SEC.45.

IC 31-21-2
Chapter 2. Definitions

IC 31-21-2-1
Definitions application
Sec. 1. The definitions in this chapter apply throughout this article.
As added by P.L.138-2007, SEC.45.

IC 31-21-2-2
"Abandoned"
Sec. 2. "Abandoned" means left without provision for reasonable and necessary care or supervision.
As added by P.L.138-2007, SEC.45.

IC 31-21-2-3
"Child"
Sec. 3. "Child" means a person who is less than eighteen (18) years of age.
As added by P.L.138-2007, SEC.45.

IC 31-21-2-4
"Child custody determination"
Sec. 4. (a) "Child custody determination" means a judgment, decree, or other court order providing for:
(1) legal custody;
(2) physical custody; or
(3) visitation;
with respect to a child.
(b) The term does not include an order relating to child support or other monetary obligation of a person.
As added by P.L.138-2007, SEC.45.

IC 31-21-2-5
"Child custody proceeding"
Sec. 5. (a) "Child custody proceeding" means a proceeding in which legal custody, physical custody, or visitation with respect to a child is an issue. The term includes a proceeding for:
(1) dissolution of marriage or legal separation;
(2) child abuse or neglect;
(3) guardianship;
(4) paternity;
(5) termination of parental rights; and
(6) protection from domestic violence;
in which the issue of child custody or visitation may appear.
(b) The term does not include a proceeding involving juvenile delinquency, contractual emancipation, or enforcement of child custody under IC 31-21-6.
As added by P.L.138-2007, SEC.45.

IC 31-21-2-6

"Commencement"

Sec. 6. "Commencement" means the filing of the first pleading in a proceeding.

As added by P.L.138-2007, SEC.45.

IC 31-21-2-7

"Court"

Sec. 7. "Court" means an entity authorized by state law to establish, enforce, or modify a child custody determination.

As added by P.L.138-2007, SEC.45.

IC 31-21-2-8

"Home state"

Sec. 8. "Home state" means the state in which a child lived with:

(1) a parent; or

(2) a person acting as a parent;

for at least six (6) consecutive months immediately before the commencement of a child custody proceeding. In the case of a child less than six (6) months of age, the term means the state in which the child lived since birth with a parent or person acting as a parent. A period of temporary absence of the parent or person acting as a parent is part of the period.

As added by P.L.138-2007, SEC.45.

IC 31-21-2-9

"Initial determination"

Sec. 9. "Initial determination" means the first child custody determination concerning a child.

As added by P.L.138-2007, SEC.45.

IC 31-21-2-10

"Issuing court"

Sec. 10. "Issuing court" means the court that makes a child custody determination for which enforcement is sought under this article.

As added by P.L.138-2007, SEC.45.

IC 31-21-2-11

"Issuing state"

Sec. 11. "Issuing state" means the state in which a child custody determination is made.

As added by P.L.138-2007, SEC.45.

IC 31-21-2-12

"Modification"

Sec. 12. "Modification" means a child custody determination that changes, replaces, supersedes, or is otherwise made after a previous determination concerning the same child, regardless of whether the determination is made by the court that made the previous determination.

As added by P.L.138-2007, SEC.45.

IC 31-21-2-13
"Person"

Sec. 13. "Person" means an individual, a corporation, a business trust, an estate, a trust, a partnership, a limited liability company, an association, a joint venture, a government, a governmental subdivision, an agency or instrumentality, a public corporation, or any other legal or commercial entity.
As added by P.L.138-2007, SEC.45.

IC 31-21-2-14
"Person acting as a parent"

Sec. 14. "Person acting as a parent" means a person, other than a parent, who:

(1) has physical custody of the child or has had physical custody for a period of at least six (6) consecutive months, including a temporary absence, within one (1) year immediately before the commencement of a child custody proceeding; and

(2) has been awarded legal custody by a court or claims a right to legal custody under Indiana law.

As added by P.L.138-2007, SEC.45.

IC 31-21-2-15
"Petitioner"

Sec. 15. "Petitioner" means a person who seeks enforcement of:

(1) an order for return of a child under the Hague Convention on the Civil Aspects of International Child Abduction; or

(2) a child custody determination.

As added by P.L.138-2007, SEC.45.

IC 31-21-2-16
"Physical custody"

Sec. 16. "Physical custody" means the physical care and supervision of a child.
As added by P.L.138-2007, SEC.45.

IC 31-21-2-17
"Record"

Sec. 17. "Record" means information that is:

(1) inscribed on a tangible medium; or

(2) stored in an electronic or other medium;

and that is retrievable in a perceivable form.
As added by P.L.138-2007, SEC.45.

IC 31-21-2-18
"Respondent"

Sec. 18. "Respondent" means a person against whom a proceeding has been commenced for enforcement of:

(1) an order for return of a child under the Hague Convention on

the Civil Aspects of International Child Abduction; or

(2) a child custody determination.

As added by P.L.138-2007, SEC.45.

IC 31-21-2-19

"State"

Sec. 19. "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or a territory or an insular possession subject to the jurisdiction of the United States.

As added by P.L.138-2007, SEC.45.

IC 31-21-2-20

"Tribe"

Sec. 20. "Tribe" means an Indian tribe or band or Alaskan Native village that is:

(1) recognized by federal law; or

(2) formally acknowledged by a state.

As added by P.L.138-2007, SEC.45.

IC 31-21-2-21

"Warrant"

Sec. 21. "Warrant" means an order issued by a court authorizing law enforcement officers to take physical custody of a child.

As added by P.L.138-2007, SEC.45.

IC 31-21-3
Chapter 3. Procedural Considerations

IC 31-21-3-1
Binding nature of child custody determination

Sec. 1. A child custody determination made by an Indiana court that has jurisdiction under this article binds each person who has:

(1) been served with notice in accordance with Indiana law;
(2) been notified in accordance with section 3 of this chapter; or
(3) submitted to the jurisdiction of the court;

and who has been given an opportunity to be heard. A child custody determination described in this section is conclusive as to the decided issues of law and fact except to the extent the determination is modified.

As added by P.L.138-2007, SEC.45.

IC 31-21-3-2
Question of existence or exercise of jurisdiction priority

Sec. 2. If a question of existence or exercise of jurisdiction under this article is raised in a child custody proceeding, the question, on a request of a party, must be given priority on the court's calendar and handled expeditiously.

As added by P.L.138-2007, SEC.45.

IC 31-21-3-3
Notice for exercise of jurisdiction to a person outside Indiana

Sec. 3. (a) Notice required for the exercise of jurisdiction when a person is outside Indiana may be given in a manner prescribed by:

(1) Indiana law for service of process; or
(2) the law of the state in which the service is made.

Notice must be given in a manner reasonably calculated to give actual notice but may be by publication if other means are not effective.

(b) Proof of service may be made in the manner prescribed by:

(1) Indiana law; or
(2) the law of the state in which the service is made.

(c) Notice is not required for the exercise of jurisdiction with respect to a person who submits to the jurisdiction of the court.

As added by P.L.138-2007, SEC.45.

IC 31-21-3-4
Party to a child custody proceeding not subject to other proceedings in Indiana

Sec. 4. A party to a child custody proceeding, including a modification proceeding, or a petitioner or respondent in a proceeding to enforce or register a child custody determination, is not subject to personal jurisdiction in Indiana for another proceeding or purpose solely by reason of having participated, or of having been physically present for the purpose of participating, in the proceeding.

As added by P.L.138-2007, SEC.45.

IC 31-21-3-5
Persons subject to personal jurisdiction not immune to service of process

Sec. 5. A person who is subject to personal jurisdiction in Indiana on a basis other than physical presence is not immune from service of process in Indiana. A person present in Indiana who is subject to the jurisdiction of another state is not immune from service of process allowable under the laws of that state.

As added by P.L.138-2007, SEC.45.

IC 31-21-3-6
Limited immunity

Sec. 6. The immunity granted by section 4 of this chapter does not extend to civil litigation based on acts unrelated to the participation in a proceeding under this article committed by an individual while present in Indiana.

As added by P.L.138-2007, SEC.45.

IC 31-21-4

Chapter 4. Communication and Cooperation Between Courts

IC 31-21-4-1

Court communication with a court in another state

Sec. 1. An Indiana court may communicate with a court in another state concerning a proceeding arising under this article.

As added by P.L.138-2007, SEC.45.

IC 31-21-4-2

Party communication

Sec. 2. The court may allow the parties to participate in the communication. If the parties are not able to participate in the communication, the parties must be given the opportunity to present facts and legal arguments before a decision on jurisdiction is made.

As added by P.L.138-2007, SEC.45.

IC 31-21-4-3

Communication between courts

Sec. 3. Communication between courts regarding:

(1) schedules;
(2) calendars;
(3) court records; and
(4) similar matters;

may occur without informing the parties. A record need not be made of the communication.

As added by P.L.138-2007, SEC.45.

IC 31-21-4-4

Record of communication

Sec. 4. A record must be made of a communication under sections 1 and 2 of this chapter. The parties must be:

(1) promptly informed of the communication; and
(2) granted access to the record.

As added by P.L.138-2007, SEC.45.

IC 31-21-4-5

Testimony of a witness located in another state

Sec. 5. In addition to other procedures available to a party, a party to a child custody proceeding may offer testimony of witnesses who are located in another state, including testimony of the parties and the child, by deposition or other means allowable in Indiana for testimony taken in another state. The court on its own motion may:

(1) order that the testimony of a person be taken in another state; and
(2) prescribe the manner in which and the terms on which the testimony is taken.

As added by P.L.138-2007, SEC.45.

IC 31-21-4-6

Depositions or testimony of a person residing in another state

Sec. 6. An Indiana court may permit a person residing in another state to be deposed or to testify by:

(1) telephone;

(2) audiovisual means; or

(3) other electronic means;

before a designated court or another location in that state. An Indiana court shall cooperate with courts in other states in designating an appropriate location for the deposition or testimony.

As added by P.L.138-2007, SEC.45.

IC 31-21-4-7

Documentary evidence from another state

Sec. 7. Documentary evidence transmitted from another state to an Indiana court by technological means that do not produce an original writing may not be excluded from evidence on an objection based on the means of transmission.

As added by P.L.138-2007, SEC.45.

IC 31-21-4-8

Request by an Indiana court to a court in another state

Sec. 8. An Indiana court may request the appropriate court of another state to do the following:

(1) Hold an evidentiary hearing.

(2) Order a person to produce or give evidence under the procedures of the other state.

(3) Order that an evaluation be made with respect to the custody of a child involved in a pending proceeding.

(4) Forward to the Indiana court:

(A) a certified copy of the transcript of the record of the hearing;

(B) the evidence otherwise presented; and

(C) an evaluation prepared in compliance with the request.

(5) Order:

(A) a party to a child custody proceeding; or

(B) any person having physical custody of the child;

to appear in the proceeding with or without the child.

As added by P.L.138-2007, SEC.45.

IC 31-21-4-9

Request by a court in another state to an Indiana court

Sec. 9. On the request of a court of another state, an Indiana court may:

(1) hold a hearing; and

(2) enter an order described in section 8 of this chapter.

As added by P.L.138-2007, SEC.45.

IC 31-21-4-10

Travel and reasonable expenses

Sec. 10. Travel and other necessary and reasonable expenses

incurred under sections 8 and 9 of this chapter may be assessed against the parties according to Indiana law.
As added by P.L.138-2007, SEC.45.

IC 31-21-4-11
Preservation of court records

Sec. 11. An Indiana court shall preserve the:
(1) pleadings;
(2) orders;
(3) decrees;
(4) records of hearings;
(5) evaluations; and
(6) other pertinent records;

with respect to a child custody proceeding until the child becomes eighteen (18) years of age. On appropriate request by a court or law enforcement official of another state, the Indiana court shall forward a certified copy of the records to the court of the other state.
As added by P.L.138-2007, SEC.45.

IC 31-21-5
Chapter 5. Jurisdiction

IC 31-21-5-1
Jurisdiction requirements

Sec. 1. (a) Except as otherwise provided in section 4 of this chapter, an Indiana court has jurisdiction to make an initial child custody determination only if one (1) of the following applies:

(1) Indiana is the home state of the child on the date of the commencement of the proceeding or was the home state of the child within six (6) months before the commencement of the proceeding, and the child is absent from Indiana but a parent or person acting as a parent continues to live in Indiana.

(2) A court of another state does not have jurisdiction under subdivision (1) or a court of the home state of the child has declined to exercise jurisdiction on the ground that Indiana is the more appropriate forum under section 8 or 9 of this chapter, and:

(A) the child and the child's parents, or the child and at least one (1) parent or person acting as a parent, have a significant connection with Indiana other than mere physical presence; and

(B) substantial evidence is available in Indiana concerning the child's care, protection, training, and personal relationships.

(3) All courts having jurisdiction under subdivision (1) or (2) have declined to exercise jurisdiction on the ground that an Indiana court is the more appropriate forum to determine the custody of the child under section 8 or 9 of this chapter.

(4) No court of any other state would have jurisdiction under the criteria specified in subdivision (1), (2), or (3).

(b) The jurisdictional requirements described in this section provide the exclusive jurisdictional basis for making a child custody determination by an Indiana court.

(c) Physical presence of, or personal jurisdiction over, a party or a child is not necessary or sufficient to make a child custody determination.

As added by P.L.138-2007, SEC.45.

IC 31-21-5-2
Exclusive, continuing jurisdiction of child custody cases

Sec. 2. (a) Except as otherwise provided in section 4 of this chapter, an Indiana court that has made a child custody determination consistent with section 1 or 3 of this chapter has exclusive, continuing jurisdiction over the determination until:

(1) an Indiana court determines that:

(A) neither:

(i) the child;

(ii) the child's parents; nor

(iii) any person acting as a parent;

has a significant connection with Indiana; and
(B) substantial evidence is no longer available in Indiana concerning the child's care, protection, training, and personal relationships; or
(2) an Indiana court or a court of another state determines that:
(A) the child;
(B) the child's parents; and
(C) any person acting as a parent;
do not presently reside in Indiana.
(b) An Indiana court that:
(1) has made a child custody determination; and
(2) does not have exclusive, continuing jurisdiction under this section;
may modify the determination only if the Indiana court has jurisdiction to make an initial determination under section 1 of this chapter.
As added by P.L.138-2007, SEC.45.

IC 31-21-5-3
Modification of a child custody determination made in another state
Sec. 3. Except as provided in section 4 of this chapter, an Indiana court may not modify a child custody determination made by a court of another state unless an Indiana court has jurisdiction to make an initial determination under section 1(a)(1) or 1(a)(2) of this chapter and:
(1) the court of the other state determines that:
(A) it no longer has exclusive, continuing jurisdiction under section 2 of this chapter; or
(B) an Indiana court would be a more convenient forum under section 8 of this chapter; or
(2) an Indiana court or a court of the other state determines that:
(A) the child;
(B) the child's parents; and
(C) any person acting as a parent;
do not presently reside in the other state.
As added by P.L.138-2007, SEC.45.

IC 31-21-5-4
Temporary emergency jurisdiction; child custody determinations; communication with other courts
Sec. 4. (a) An Indiana court has temporary emergency jurisdiction if the child is present in Indiana and:
(1) the child has been abandoned; or
(2) it is necessary in an emergency to protect the child because:
(A) the child;
(B) the child's sibling; or
(C) the child's parent;
is subjected to or threatened with mistreatment or abuse.
(b) If:

(1) there is no previous child custody determination that is entitled to be enforced under this article; and

(2) a child custody proceeding has not been commenced in a court of a state having jurisdiction under sections 1 through 3 of this chapter;

a child custody determination made under this section remains in effect until an order is obtained from a court of a state having jurisdiction under sections 1 through 3 of this chapter.

(c) If a child custody proceeding has not been or is not commenced in a court of a state having jurisdiction under sections 1 through 3 of this chapter, a child custody determination made under this section becomes a final determination, and, if it so provides, Indiana becomes the home state of the child.

(d) If:

(1) there is a previous child custody determination that is entitled to be enforced under this article; or

(2) a child custody proceeding has been commenced in a court of a state having jurisdiction under sections 1 through 3 of this chapter;

an order issued by an Indiana court under this section must specify in the order a period that the court considers adequate to allow the person seeking an order to obtain an order from the state having jurisdiction under sections 1 through 3 of this chapter.

(e) The order issued in Indiana remains in effect until an order is obtained from the other state within the period specified or the period expires.

(f) An Indiana court that has been asked to make a child custody determination under this section, on being informed that:

(1) a child custody proceeding has been commenced in; or

(2) a child custody determination has been made by;

a court of a state having jurisdiction under sections 1 through 3 of this chapter, shall immediately communicate with the other court.

(g) An Indiana court that is exercising jurisdiction under sections 1 through 3 of this chapter, on being informed that:

(1) a child custody proceeding has been commenced in; or

(2) a child custody determination has been made by;

a court of another state under a statute similar to this section, shall immediately communicate with the court of the other state to resolve the emergency, protect the safety of the parties and the child, and determine a period for the duration of the temporary order.

As added by P.L.138-2007, SEC.45.

IC 31-21-5-5

Notice and opportunity to be heard; intervention and joinder

Sec. 5. (a) Before a child custody determination is made under this article, notice and an opportunity to be heard in accordance with the standards of IC 31-21-3-3 must be given to the following persons:

(1) Persons entitled to notice under Indiana law as in child custody proceedings between residents of Indiana.

(2) A parent whose parental rights have not been previously

terminated.

(3) Any person having physical custody of the child.

(b) This article does not govern the enforceability of a child custody determination made without notice or an opportunity to be heard.

(c) The obligation to join a party and the right to intervene as a party in a child custody proceeding under this article are governed by Indiana law in the same manner as in child custody proceedings between Indiana residents.

As added by P.L.138-2007, SEC.45.

IC 31-21-5-6

Proceeding commenced in another state; court review of documents

Sec. 6. (a) Except as otherwise provided in section 4 of this chapter, an Indiana court may not exercise its jurisdiction under this article if, at the time of the commencement of the proceeding, a proceeding concerning the custody of the child has been commenced in a court of another state having jurisdiction substantially in conformity with this article, unless the proceeding:

(1) has been terminated; or

(2) is stayed by the court of the other state because an Indiana court is a more convenient forum under section 8 of this chapter.

(b) Except as otherwise provided in section 4 of this chapter, an Indiana court, before hearing a child custody proceeding, shall examine the court documents and other information supplied by the parties under sections 10 through 13 of this chapter. If the court determines that a child custody proceeding has been commenced in a court in another state having jurisdiction substantially in accordance with this article, the Indiana court shall:

(1) stay its proceeding; and

(2) communicate with the court of the other state.

If the court of the state having jurisdiction substantially in accordance with this article does not determine that the Indiana court is a more appropriate forum, the Indiana court shall dismiss the proceeding.

As added by P.L.138-2007, SEC.45.

IC 31-21-5-7

Proceeding to modify a child custody determination; proceeding commenced in another state

Sec. 7. In a proceeding to modify a child custody determination, an Indiana court shall determine whether a proceeding to enforce the determination has been commenced in another state. If a proceeding to enforce a child custody determination has been commenced in another state, the Indiana court may:

(1) stay the proceeding for modification pending the entry of an order of a court of the other state enforcing, staying, denying, or dismissing the proceeding for enforcement;

(2) enjoin the parties from continuing with the proceeding for enforcement; or

(3) proceed with the modification under conditions the Indiana court considers appropriate.

As added by P.L.138-2007, SEC.45.

IC 31-21-5-8

Court declining exercise of jurisdiction

Sec. 8. (a) An Indiana court that has jurisdiction under this article to make a child custody determination may decline to exercise its jurisdiction at any time if the Indiana court determines that:

(1) the Indiana court is an inconvenient forum under the circumstances; and

(2) a court of another state is a more appropriate forum.

The issue of inconvenient forum may be raised on motion of a party, the court's own motion, or request of another court.

(b) Before determining whether an Indiana court is an inconvenient forum, the Indiana court shall consider whether it is appropriate for a court of another state to exercise jurisdiction. For this purpose, the Indiana court shall allow the parties to submit information and shall consider the relevant factors, including the following:

(1) Whether domestic violence has occurred and is likely to continue in the future and which state is best able to protect the parties and the child.

(2) The length of time the child has resided outside Indiana.

(3) The distance between the Indiana court and the court in the state that would assume jurisdiction.

(4) The relative financial circumstances of the parties.

(5) An agreement of the parties as to which state should assume jurisdiction.

(6) The nature and location of the evidence required to resolve the pending litigation, including the child's testimony.

(7) The ability of the court of each state to decide the issue expeditiously and the procedures necessary to present the evidence.

(8) The familiarity of the court of each state with the facts and issues in the pending litigation.

(c) If an Indiana court determines that it is an inconvenient forum and that a court of another state is a more appropriate forum, the Indiana court:

(1) shall stay the proceedings on condition that a child custody proceeding be promptly commenced in another designated state; and

(2) may impose any other condition the Indiana court considers just and proper.

(d) An Indiana court may decline to exercise its jurisdiction under this article if a child custody determination is incidental to an action for dissolution of marriage or another proceeding while still retaining jurisdiction over the dissolution of marriage or other proceeding.

As added by P.L.138-2007, SEC.45.

IC 31-21-5-9

Court declining exercise of jurisdiction if person engaged in unjustifiable conduct; exceptions; remedies; reasonable expenses

Sec. 9. (a) Except as otherwise provided in section 4 of this chapter or by any other Indiana law, if an Indiana court has jurisdiction under this article because a person seeking to invoke its jurisdiction has engaged in unjustifiable conduct, the court shall decline to exercise its jurisdiction unless:

(1) the child's parents and any person acting as a parent have acquiesced in the exercise of jurisdiction;

(2) a court of the state otherwise having jurisdiction under sections 1 through 3 of this chapter determines that Indiana is a more appropriate forum under section 8 of this chapter; or

(3) no court of any other state would have jurisdiction under the criteria specified in sections 1 through 3 of this chapter.

(b) If an Indiana court declines to exercise its jurisdiction under subsection (a), the Indiana court may fashion an appropriate remedy to:

(1) ensure the safety of the child; and

(2) prevent a repetition of the unjustifiable conduct;

including staying the proceeding until a child custody proceeding is commenced in a court having jurisdiction under sections 1 through 3 of this chapter.

(c) If a court dismisses a petition or stays a proceeding because it declines to exercise its jurisdiction under subsection (a), the court shall assess against the party seeking to invoke its jurisdiction necessary and reasonable expenses, including:

(1) costs;

(2) communication expenses;

(3) attorney's fees;

(4) investigative fees;

(5) expenses for witnesses;

(6) travel expenses; and

(7) child care during the course of the proceedings;

unless the party from whom fees are sought establishes that the assessment would be clearly inappropriate. The court may not assess fees, costs, or expenses against the state unless authorized by law other than this article.

As added by P.L.138-2007, SEC.45.

IC 31-21-5-10

Information required by each party in a child custody proceeding

Sec. 10. (a) Subject to local law providing for the confidentiality of procedures, addresses, and other identifying information in a child custody proceeding, each party, in its first pleading or in an attached affidavit, shall provide information, under oath, regarding:

(1) the child's present address or whereabouts and the places where the child has lived during the immediately preceding five (5) years; and

(2) the names and present addresses of the persons with whom

the child has lived during that period.

(b) The pleading or affidavit must state the following:

(1) Whether the party has participated, as a party or witness or in any other capacity, in any other proceeding concerning the custody of or visitation with the child and, if so, identify:

(A) the court;

(B) the case number; and

(C) the date of the child custody determination, if any.

(2) Whether the party knows of a proceeding that may affect the current proceeding, including proceedings for enforcement and proceedings relating to:

(A) domestic violence;

(B) protective orders;

(C) termination of parental rights; and

(D) adoptions;

and, if so, identify the court, the case number, and the nature of the proceeding.

(3) Whether the party knows the names and addresses of a person not a party to the proceeding who:

(A) has physical custody of the child; or

(B) claims rights of legal custody or physical custody of, or visitation with, the child;

and, if so, the names and addresses of the persons.

(c) If the information required by subsection (a) is not furnished, the court, on motion of a party or its own motion, may stay the proceeding until the information is furnished.

As added by P.L.138-2007, SEC.45.

IC 31-21-5-11

Additional information required by each party in a child custody proceeding

Sec. 11. If the declaration as to any of the items described in section 10(b)(1) through 10(b)(3) of this chapter is in the affirmative, the party shall give additional information under oath as required by the court. The court may examine the parties under oath as to details of the information furnished and other matters pertinent to:

(1) the court's jurisdiction; and

(2) the disposition of the case.

As added by P.L.138-2007, SEC.45.

IC 31-21-5-12

Continuous duty to inform

Sec. 12. Each party has a continuing duty to inform the court of a proceeding in Indiana or any other state that may affect the current proceeding.

As added by P.L.138-2007, SEC.45.

IC 31-21-5-13

Information required to be sealed

Sec. 13. If a party alleges in an affidavit or a pleading under oath

that the health, safety, or liberty of a party or child would be jeopardized by disclosure of identifying information, the information must be sealed and may not be disclosed to the other party or the public unless the court orders the disclosure to be made after a hearing in which the court:

(1) takes into consideration the health, safety, or liberty of the party or child; and

(2) determines that the disclosure is in the interest of justice.

As added by P.L.138-2007, SEC.45.

IC 31-21-5-14

Order to appear before the court

Sec. 14. (a) In a child custody proceeding in Indiana, the court may order a party to the proceeding who is in Indiana to appear before the court in person with or without the child. The court may order any person who:

(1) is in Indiana; and

(2) has physical custody or control of the child;

to appear in person with the child.

(b) If a party to a child custody proceeding whose presence is desired by the court is outside Indiana, the court may order that a notice given under IC 31-21-3-3 include a statement:

(1) directing the party to appear in person with or without the child; and

(2) informing the party that failure to appear may result in a decision adverse to the party.

(c) The court may enter an order necessary to ensure the safety of:

(1) the child; and

(2) any person ordered to appear under this section.

(d) If a party to a child custody proceeding who is outside Indiana:

(1) is directed to appear under subsection (b); or

(2) desires to appear personally before the court with or without the child;

the court may require another party to pay reasonable and necessary travel and other expenses of the party who appears and of the child.

As added by P.L.138-2007, SEC.45.

IC 31-21-6
Chapter 6. Enforcement

IC 31-21-6-1
Order for the return of a child made under the Hague Convention on the Civil Aspects of International Child Abduction

Sec. 1. Under this chapter, an Indiana court may enforce an order for the return of the child made under the Hague Convention on the Civil Aspects of International Child Abduction as if it were a child custody determination.

As added by P.L.138-2007, SEC.45.

IC 31-21-6-2
Enforcement of a child custody determination made in another state; remedies

Sec. 2. (a) An Indiana court shall recognize and enforce a child custody determination of a court of another state if the court of another state exercised jurisdiction in substantial conformity with this article or the determination:

(1) was made under factual circumstances meeting the jurisdictional standards of this article; and

(2) has not been modified in accordance with this article.

(b) An Indiana court may use a remedy available under any other Indiana law to enforce a child custody determination made by a court of another state. The remedies provided in this article:

(1) are cumulative; and

(2) do not affect the availability of other remedies to enforce a child custody determination.

As added by P.L.138-2007, SEC.45.

IC 31-21-6-3
Temporary orders

Sec. 3. (a) An Indiana court that does not have jurisdiction to modify a child custody determination may issue a temporary order enforcing:

(1) a visitation schedule made by a court of another state; or

(2) the visitation provisions of a child custody determination of another state that does not provide for a specific visitation schedule.

(b) If an Indiana court makes an order under subsection (a)(2), the Indiana court shall specify in the order a period that it considers adequate to allow the petitioner to obtain an order from a court having jurisdiction under the criteria specified in IC 31-21-5. The order remains in effect until:

(1) an order is obtained from the court having jurisdiction; or

(2) the period expires.

As added by P.L.138-2007, SEC.45.

IC 31-21-6-4
Registry of child custody determinations made in another state;

registering court duties; notice requirements

Sec. 4. (a) A child custody determination issued by a court of another state may be registered in Indiana, with or without a simultaneous request for enforcement, by sending the following to the appropriate Indiana court:

(1) A letter or other document requesting registration.

(2) Two (2) copies, including one (1) certified copy, of the determination sought to be registered and a statement under penalty of perjury that to the best of the knowledge and belief of the person seeking registration the order has not been modified.

(3) Except as otherwise provided in section 13 of this chapter:

(A) the name and address of the person seeking registration; and

(B) the name of a parent or person acting as a parent who has been awarded custody or visitation in the child custody determination sought to be registered.

(b) On receipt of the documents required by subsection (a), the registering court shall:

(1) cause the determination to be filed as a foreign judgment, together with one (1) copy of the accompanying documents and information, regardless of their form; and

(2) serve notice on each person named under subsection (a)(3) and provide the person with an opportunity to contest the registration in accordance with this section.

(c) The notice required by subsection (b)(2) must state the following:

(1) A registered determination is enforceable as of the date of the registration in the same manner as a child custody determination issued by an Indiana court.

(2) A hearing to contest the validity of the registered determination must be requested not more than twenty (20) days after service of notice.

(3) Failure to contest the registration shall:

(A) result in confirmation of the child custody determination; and

(B) preclude further contest of that determination with respect to a matter that may have otherwise been asserted.

As added by P.L.138-2007, SEC.45.

IC 31-21-6-5

Hearing to contest validity of a registered order

Sec. 5. (a) A person seeking to contest the validity of a registered order must request a hearing not more than twenty (20) days after service of the notice. At the hearing, the court shall confirm the registered order unless the person contesting the registration establishes that:

(1) the issuing court did not have jurisdiction under IC 31-21-5;

(2) the child custody determination sought to be registered has been:

(A) vacated;
(B) stayed; or
(C) modified;

by a court having jurisdiction to do so under IC 31-21-5; or

(3) the person contesting registration was entitled to notice, but notice was not given in accordance with the standards of IC 31-21-3-3 in the proceedings before the court that issued the order for which registration is sought.

(b) If a timely request for a hearing to contest the validity of the registration is not made:

(1) the registration is confirmed as a matter of law; and

(2) the person requesting registration and each person served must be notified of the confirmation.

(c) Confirmation of a registered order whether:

(1) by operation of law; or

(2) after notice and hearing;

precludes further contest of the order with respect to a matter that may have been asserted at the time of registration.

As added by P.L.138-2007, SEC.45.

IC 31-21-6-6

Enforcement of registered child custody determinations

Sec. 6. (a) An Indiana court may grant a relief normally available under Indiana law to enforce a registered child custody determination made by a court of another state.

(b) An Indiana court shall recognize and enforce, but may not modify, except in accordance with IC 31-21-5, a registered child custody determination of a court of another state.

As added by P.L.138-2007, SEC.45.

IC 31-21-6-7

Proceedings pending in another state

Sec. 7. If a proceeding for enforcement under this article is commenced in an Indiana court and the court determines that a proceeding to modify the determination is pending in a court of another state having jurisdiction to modify the determination under IC 31-21-5, the enforcing court shall immediately communicate with the modifying court. The proceeding for enforcement continues unless the enforcing court, after consultation with the modifying court, stays or dismisses the proceeding.

As added by P.L.138-2007, SEC.45.

IC 31-21-6-8

Petition verification requirements

Sec. 8. (a) A petition under this article must be verified. Certified copies of:

(1) the orders sought to be enforced; and

(2) an order confirming registration;

must be attached to the petition. A copy of a certified copy of an order may be attached instead of the original.

(b) A petition for enforcement of a child custody determination must state the following:

(1) Whether the court that issued the determination identified the jurisdictional basis it relied on in exercising jurisdiction and, if so, what the basis was.

(2) Whether the determination for which enforcement is sought has been vacated, stayed, or modified by a court whose decision must be enforced under this article and, if so, identify:

(A) the court;

(B) the case number; and

(C) the nature of the proceeding.

(3) Whether a proceeding has been commenced that may affect the current proceeding, including proceedings relating to:

(A) domestic violence;

(B) protective orders;

(C) termination of parental rights; and

(D) adoptions;

and, if so, identify the court, the case number, and the nature of the proceeding.

(4) The present physical address of the child and the respondent, if known.

(5) Whether relief in addition to the immediate physical custody of the child and attorney's fees is sought, including a request for assistance from law enforcement officials and, if so, the relief sought.

(6) If the child custody determination has been registered and confirmed under sections 4 and 5 of this chapter, the date and place of registration.

As added by P.L.138-2007, SEC.45.

IC 31-21-6-9

Court duties after petition is filed

Sec. 9. (a) On the filing of a petition, the court:

(1) shall issue an order directing the respondent to appear in person with or without the child at a hearing; and

(2) may enter an order necessary to ensure the safety of the parties and the child.

The hearing must be held on the next judicial day after service of the order unless holding the hearing on that date is impossible. In that event, the court shall hold the hearing on the first judicial day possible. The court may extend the date of hearing at the request of the petitioner.

(b) An order issued under subsection (a) must state the time and place of the hearing and advise the respondent that at the hearing the court will order that the petitioner may take immediate physical custody of the child and the payment of fees, costs, and expenses under section 15 of this chapter and may schedule a hearing to determine whether further relief is appropriate unless the respondent appears and establishes that:

(1) the child custody determination has not been registered and

confirmed under sections 4 and 5 of this chapter and that:

(A) the issuing court did not have jurisdiction under IC 31-21-5;

(B) the child custody determination for which enforcement is sought has been vacated, stayed, or modified by a court having jurisdiction under IC 31-21-5; or

(C) the respondent was entitled to notice, but notice was not given in accordance with the standards of IC 31-21-3-3 in the proceedings before the court that issued the order for which enforcement is sought; or

(2) the child custody determination for which enforcement is sought was registered and confirmed under sections 4 and 5 of this chapter but has been vacated, stayed, or modified by a court of a state having jurisdiction under IC 31-21-5.

As added by P.L.138-2007, SEC.45.

IC 31-21-6-10

Service of petition

Sec. 10. Except as otherwise provided in section 13 or 14 of this chapter, the petition and order must be served, by a method authorized by Indiana law, on the respondent and any person who has physical custody of the child.

As added by P.L.138-2007, SEC.45.

IC 31-21-6-11

Orders concerning physical custody of a child

Sec. 11. Unless the court issues a temporary emergency order under IC 31-21-5-4 on a finding that a petitioner is entitled to immediate physical custody of the child, the court shall order that the petitioner may take immediate physical custody of the child unless the respondent establishes that:

(1) the child custody determination has not been registered and confirmed under sections 4 and 5 of this chapter and that:

(A) the issuing court did not have jurisdiction under IC 31-21-5;

(B) the child custody determination for which enforcement is sought has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under IC 31-21-5; or

(C) the respondent was entitled to notice, but notice was not given in accordance with the standards of IC 31-21-3-3 in the proceedings before the court that issued the order for which enforcement is sought; or

(2) the child custody determination for which enforcement is sought was registered and confirmed under sections 4 and 5 of this chapter but has been vacated, stayed, or modified by a court of a state having jurisdiction under IC 31-21-5.

As added by P.L.138-2007, SEC.45.

IC 31-21-6-12

Fees, costs, and expenses; request for assistance of law

enforcement; additional relief; refusal to testify; spousal privilege

Sec. 12. (a) The court:

(1) shall award the fees, costs, and expenses authorized under section 15 of this chapter; and

(2) may grant additional relief, including a request for the assistance of law enforcement officials, and set a hearing to determine whether additional relief is appropriate.

(b) If a party called to testify refuses to answer on the ground that the testimony may be self-incriminating, the court may draw an adverse inference from the refusal.

(c) A privilege against disclosure of communications between spouses and a defense of immunity based on the relationship of husband and wife or parent and child may not be invoked in a proceeding under this chapter.

As added by P.L.138-2007, SEC.45.

IC 31-21-6-13

Application for issuance of a warrant to take physical custody of a child

Sec. 13. (a) On the filing of a petition seeking enforcement of a child custody determination, the petitioner may file a verified application for the issuance of a warrant to take physical custody of the child if the child is immediately likely to:

(1) suffer serious physical harm; or

(2) be removed from Indiana.

(b) If the court, on the testimony of the petitioner or other witness, finds that the child is imminently likely to suffer serious physical harm or be removed from Indiana, the court may issue a warrant to take physical custody of the child. The petition must be heard on the next judicial day after the warrant is executed unless hearing the petition on that date is impossible. In that event, the court shall hold the hearing on the first judicial day possible. The application for the warrant must include the statements required by section 8(b) of this chapter.

As added by P.L.138-2007, SEC.45.

IC 31-21-6-14

Information on a warrant to take physical custody of a child

Sec. 14. (a) A warrant to take physical custody of a child must:

(1) recite the facts on which a conclusion of imminent serious physical harm or removal from the jurisdiction is based;

(2) direct law enforcement officers to take physical custody of the child immediately; and

(3) provide for the placement of the child pending final relief.

(b) The respondent must be served with the petition, warrant, and order immediately after the child is taken into physical custody.

(c) A warrant to take physical custody of a child is enforceable throughout Indiana. If the court finds on the basis of the testimony of the petitioner or other witness that a less intrusive remedy is not effective, the court may authorize law enforcement officers to enter

private property to take physical custody of the child. If required by exigent circumstances of the case, the court may authorize law enforcement officers to make a forcible entry at any hour.

(d) The court may impose conditions on the placement of a child to ensure the appearance of the child and the child's custodian.

As added by P.L.138-2007, SEC.45.

IC 31-21-6-15

Reasonable expenses awards

Sec. 15. (a) The court shall award the prevailing party, including a state, necessary and reasonable expenses incurred by or on behalf of the party, including:

(1) costs;
(2) communication expenses;
(3) attorney's fees;
(4) investigative fees;
(5) expenses for witnesses;
(6) travel expenses; and
(7) child care during the course of the proceedings;

unless the party from whom fees or expenses are sought establishes that the award would be clearly inappropriate.

(b) The court may not assess fees, costs, or expenses against a state unless authorized by law other than this article.

As added by P.L.138-2007, SEC.45.

IC 31-21-6-16

Full faith and credit to out-of-state orders

Sec. 16. An Indiana court shall accord full faith and credit to an order issued by another state and consistent with this article that enforces a child custody determination by a court of another state unless the order has been vacated, stayed, or modified by a court having jurisdiction under IC 31-21-5.

As added by P.L.138-2007, SEC.45.

IC 31-21-6-17

Appeals

Sec. 17. An appeal may be taken from a final order in a proceeding under this article in accordance with expedited appellate procedures in other civil cases. Unless the court enters a temporary emergency order under IC 31-21-5-4, the enforcing court may not stay an order enforcing a child custody determination pending appeal.

As added by P.L.138-2007, SEC.45.

IC 31-21-6-18

Proceeding to locate a child

Sec. 18. (a) In a case arising under this article or involving the Hague Convention on the Civil Aspects of International Child Abduction, a prosecuting attorney or other appropriate public official may take a lawful action, including resorting to a proceeding under this article or any other available civil proceeding, to locate a child,

obtain the return of a child, or enforce a child custody determination if there is:

(1) an existing child custody determination;

(2) a request to do so from a court in a pending child custody proceeding;

(3) a reasonable belief that a criminal statute has been violated; or

(4) a reasonable belief that the child has been wrongfully removed or retained in violation of the Hague Convention on the Civil Aspects of International Child Abduction.

(b) A prosecuting attorney or other appropriate public official acting under this section acts on behalf of the court and may not represent a party.

As added by P.L.138-2007, SEC.45.

IC 31-21-6-19

Law enforcement officer actions

Sec. 19. At the request of a prosecuting attorney or other appropriate public official acting under section 18 of this chapter, a law enforcement officer may:

(1) take a lawful action reasonably necessary to locate a child or a party; and

(2) assist a prosecuting attorney or appropriate public official with responsibilities under section 18 of this chapter.

As added by P.L.138-2007, SEC.45.

IC 31-21-6-20

Assessment of costs

Sec. 20. If the respondent is not the prevailing party, the court may assess against the respondent the direct expenses and costs incurred by the prosecuting attorney or other appropriate public official and law enforcement officers under section 18 or 19 of this chapter.

As added by P.L.138-2007, SEC.45.

IC 31-21-7

Chapter 7. Miscellaneous Provisions

IC 31-21-7-1

Uniformity of the law

Sec. 1. In applying and construing this article, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

As added by P.L.138-2007, SEC.45.

IC 31-21-7-2

Invalidity of provisions

Sec. 2. If a provision of this article or its application to a person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this article that can be given effect without the invalid provision or application, and to this end the provisions of this article are severable.

As added by P.L.138-2007, SEC.45.

IC 31-21-7-3

Request for relief prior to July 1, 2007

Sec. 3. A motion or other request for relief made:

(1) in a child custody proceeding; or

(2) to enforce a child custody determination;

that was commenced before July 1, 2007, is governed by the law in effect at the time the motion or other request was made.

As added by P.L.138-2007, SEC.45.

IC 31-25

ARTICLE 25. CHILD SERVICES: ADMINISTRATION

IC 31-25-1

Chapter 1. Establishment of Department of Child Services

IC 31-25-1-1

Department established; director

Sec. 1. (a) The department of child services is established.

(b) The governor shall appoint a director who is responsible for administering the department of child services. The director:

(1) serves at the governor's pleasure; and

(2) is entitled to compensation set by the budget agency.

As added by P.L.145-2006, SEC.271.

IC 31-25-2

Chapter 2. General Duties of the Department of Child Services

IC 31-25-2-1

"Department"

Sec. 1. As used in this article, "department" refers to the department of child services established by IC 31-25-1-1.

As added by P.L.145-2006, SEC.271.

IC 31-25-2-2

Personnel

Sec. 2. The director may employ necessary personnel to carry out the department's responsibilities subject to:

(1) the budget agency's approval under IC 4-12-1-13; and

(2) IC 4-15-2.2.

As added by P.L.145-2006, SEC.271. Amended by P.L.6-2012, SEC.206.

IC 31-25-2-2.5

No personal liability for official acts

Sec. 2.5. The following are not personally liable, except to the state, for an official act done or omitted in connection with performance of duties under this title:

(1) The director of the department.

(2) Other officers and employees of the department.

As added by P.L.146-2008, SEC.563.

IC 31-25-2-3

Department organization

Sec. 3. The director shall determine the best manner of organizing the department to provide the necessary services throughout Indiana to fulfill the purposes of this article.

As added by P.L.145-2006, SEC.271.

IC 31-25-2-4

Family case manager caseload reports

Sec. 4. One (1) time every twelve (12) months, the department shall submit a report to the budget committee and to the legislative council that provides data and statistical information regarding caseloads of family case managers. The report made to the legislative council must be in an electronic format under IC 5-14-6.

As added by P.L.145-2006, SEC.271. Amended by P.L.131-2009, SEC.26.

IC 31-25-2-4.5

Repealed

(Repealed by P.L.48-2012, SEC.23.)

IC 31-25-2-5

Caseload limitations

Sec. 5. (a) The department shall ensure that the department maintains staffing levels of family case managers so that each region has enough family case managers to allow caseloads to be at not more than:

(1) twelve (12) active cases relating to initial assessments, including investigations of an allegation of child abuse or neglect; or

(2) seventeen (17) children monitored and supervised in active cases relating to ongoing services.

(b) The department shall comply with the maximum caseload ratios described in subsection (a).

As added by P.L.145-2006, SEC.271. Amended by P.L.146-2008, SEC.564; P.L.128-2012, SEC.86.

IC 31-25-2-6

Report requirements

Sec. 6. The report required under section 4 of this chapter must do the following:

(1) Indicate the department's progress in recruiting, training, and retaining family case managers.

(2) Describe the methodology used to compute caseloads for each family case manager.

(3) Indicate whether the statewide average caseloads for family case managers exceed the caseload standards established by the department.

(4) If the report indicates that average caseloads exceed caseload standards, include a written plan that indicates the steps that are being taken to reduce caseloads.

(5) Identify, describe, and, if appropriate, recommend best management practices and resources required to achieve effective and efficient delivery of child protection services.

As added by P.L.145-2006, SEC.271. Amended by P.L.131-2009, SEC.27.

IC 31-25-2-7

Department duties

Sec. 7. (a) The department is responsible for the following:

(1) Providing child protection services under this article.

(2) Providing and administering child abuse and neglect prevention services.

(3) Providing and administering child services.

(4) Providing and administering family services.

(5) Providing family preservation services under IC 31-26-5.

(6) Regulating and licensing the following under IC 31-27:

(A) Child caring institutions.

(B) Foster family homes.

(C) Group homes.

(D) Child placing agencies.

(7) Administering the state's plan for the administration of Title

IV-D of the federal Social Security Act (42 U.S.C. 651 et seq.).

(8) Administering foster care services.

(9) Administering independent living services (as described in 42 U.S.C. 677 et seq.).

(10) Administering adoption services.

(11) Certifying and providing grants to the youth services bureaus under IC 31-26-1.

(12) Administering the project safe program.

(13) Paying for programs and services as provided under IC 31-40.

(14) Obtaining on an annual basis a consumer report, as defined in 42 U.S.C. 1681a(d), for each child at least fifteen (15) years of age who is in state foster care.

(b) This chapter does not authorize or require the department to:

(1) investigate or report on proceedings under IC 31-17-2 relating to a child who is not the subject of an open child in need of services case under IC 31-34; or

(2) otherwise monitor child custody or visitation in dissolution of marriage proceedings.

(c) This chapter does not authorize or require the department to:

(1) conduct home studies; or

(2) otherwise participate in guardianship proceedings under IC 29-3;

other than those over which the juvenile court has jurisdiction under IC 29-3-2-1(c) or IC 31-30-1-1(10).

As added by P.L.145-2006, SEC.271. Amended by P.L.146-2008, SEC.565; P.L.128-2012, SEC.87.

IC 31-25-2-8

Department as single state agency responsible for administering certain grants, funds, and programs; Title IV-E on behalf of Indian children

Sec. 8. (a) The department is the single state agency responsible for administering the following:

(1) Title IV-B of the federal Social Security Act under 42 U.S.C. 620 et seq.

(2) Title IV-E of the federal Social Security Act under 42 U.S.C. 670 et seq.

(3) The federal Child Abuse Prevention and Treatment Act under 42 U.S.C. 5106 et seq.

(4) The federal Social Services Block Grant under 42 U.S.C. 1397 et seq.

(5) Any other federal program that provides funds to states for services related to the prevention of child abuse and neglect, child welfare services, foster care, independent living, or adoption services.

(b) This subsection applies beginning October 1, 2009. Under 42 U.S.C. 671(a)(32), the department shall negotiate in good faith with any Indian tribe, tribal organization, or tribal consortium in the state that requests to develop an agreement with the state to administer all

or part of Title IV-E of the federal Social Security Act under 42 U.S.C. 670 et seq., on behalf of Indian children who are under the authority of the tribe, tribal organization, or tribal consortium.
As added by P.L.145-2006, SEC.271. Amended by P.L.131-2009, SEC.28.

IC 31-25-2-9
Repealed
(Repealed by P.L.1-2009, SEC.174.)

IC 31-25-2-10
Department duties concerning staff
Sec. 10. (a) This section applies after June 30, 2008.
(b) The department of child services:
(1) must have sufficient qualified and trained staff to:
(A) fulfill the purpose of this article;
(B) comply with the maximum caseload ratios for:
(i) family case managers; and
(ii) child welfare caseworkers;
as set forth in IC 31-25-2-5;
(2) must be organized to maximize the continuity of responsibility, care, and service of individual family case managers toward individual children and families;
(3) must provide training to representatives of the department regarding the legal duties of the representatives in carrying out the responsibility of the department under section 7 of this chapter, which may consist of various methods of informing the representatives of their duties, in order to protect the legal rights and safety of children and families from the initial time of contact during the investigation through treatment; and
(4) must provide training to representatives of the child protection services system regarding the constitutional rights of the child's family, including a child's guardian or custodian, that is the subject of an assessment of child abuse or neglect consistent with the Fourth Amendment to the United States Constitution and Article 1, Section 11 of the Constitution of the State of Indiana.
As added by P.L.145-2006, SEC.271. Amended by P.L.131-2009, SEC.30.

IC 31-25-2-11
Powers, responsibilities, and duties
Sec. 11. (a) Except in cases involving a child who may be a victim of institutional abuse or cases in which police investigation also appears appropriate, the department is the primary public agency responsible for:
(1) receiving;
(2) assessing or arranging for assessment of; and
(3) coordinating the assessment of;
all reports of a child who may be a victim of known or suspected

child abuse or neglect.

(b) In accordance with a local plan for child protection services, the department shall, by juvenile court order:

(1) provide protection services to prevent cases where a child may be a victim of further child abuse or neglect; and

(2) provide for or arrange for and coordinate and monitor the provision of the services necessary to ensure the safety of children.

(c) Reasonable efforts must be made to provide family services designed to prevent a child's removal from the child's parent, guardian, or custodian.

As added by P.L.145-2006, SEC.271. Amended by P.L.131-2009, SEC.31.

IC 31-25-2-12

Notice of existence of photographs, x-rays, and physical medical examination reports

Sec. 12. The department shall give notice of the existence and location of photographs, x-rays, and physical medical examination reports to:

(1) the appropriate prosecuting attorney; and

(2) the appropriate law enforcement agency, if the law enforcement agency has not already received the items described in this section under IC 31-33-10-3.

As added by P.L.145-2006, SEC.271.

IC 31-25-2-13

Access to photographs, x-rays, and physical medical examination reports

Sec. 13. Photographs, x-rays, or physical medical examination reports shall be made available to:

(1) the law enforcement agency having jurisdiction;

(2) the department;

(3) the prosecuting attorney;

(4) the guardian ad litem; or

(5) the court appointed special advocate appointed by the juvenile court;

for use in any judicial proceeding relating to the subject matter of a report made under this article and, to the extent permissible under the Indiana Rules of Trial Procedure, to the adverse party in any proceeding arising under this article.

As added by P.L.145-2006, SEC.271.

IC 31-25-2-14

Cooperation with public and private agencies

Sec. 14. (a) The department shall cooperate with and shall seek and receive the cooperation of appropriate public and private agencies, including the following:

(1) Law enforcement agencies.

(2) The courts.

(3) Organizations, groups, and programs providing or concerned with services related to the prevention, identification, or treatment of a child who may be a victim of child abuse or neglect.

(b) The department shall also cooperate with public and private agencies, organizations, and groups that provide family services designed to prevent a child's removal from the child's home.

(c) Cooperation and involvement under this section may include the following:

(1) Consultation services.

(2) Planning.

(3) Case management.

(4) Public education and information services.

(5) Use of each other's facilities, staff, and other training.

As added by P.L.145-2006, SEC.271.

IC 31-25-2-15

Purchase of services of public or private agency

Sec. 15. (a) Notwithstanding any other law, the department may purchase and use the services of any public or private agency if adequate provision is made for continuity of care and accountability.

(b) If the department purchases services under this article, the state shall reimburse the expenses, to the extent allowed by state and federal statutes, rules, and regulations, to the locality or agency in the same manner and to the same extent as if the services were provided directly by the department.

As added by P.L.145-2006, SEC.271.

IC 31-25-2-16

Department of child services child care fund

Sec. 16. (a) The department of child services child care fund is established for the purpose of providing training and facilitating compliance with and enforcement of IC 31-25 through IC 31-28. The fund shall be administered by the department.

(b) The fund consists of the fees and civil penalties collected under IC 31-25 through IC 31-28.

(c) The expenses of administering the fund shall be paid from money in the fund.

(d) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund.

(e) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

As added by P.L.145-2006, SEC.271.

IC 31-25-2-17

Repealed

(Repealed by P.L.146-2008, SEC.806.)

IC 31-25-2-18
Rules

Sec. 18. The department may adopt rules under IC 4-22-2 necessary to carry out the department's or bureau's duties under this article.

As added by P.L.145-2006, SEC.271.

IC 31-25-2-19
Adoption fees

Sec. 19. (a) The department may charge the following adoption fees:

(1) An adoption placement fee that may not exceed the actual costs incurred by the department for medical expenses of children and mothers.

(2) A fee that does not exceed the time and travel costs incurred by the department for home study and investigation concerning a contemplated adoption.

(b) Fees charged under this section shall be deposited in the child trust clearance account established under IC 31-25-2-20.2. Money deposited under this subsection shall be expended by the department for the following purposes without further appropriation:

(1) The care of children whose adoption is contemplated.

(2) The improvement of adoption services provided by the department.

(c) The director may adopt rules governing the expenditure of money under this section.

(d) The department may reduce or waive charges authorized under this section in hardship cases or for other good cause after investigation. The department may adopt forms on which the written authorization is provided.

As added by P.L.145-2006, SEC.271. Amended by P.L.146-2008, SEC.566.

IC 31-25-2-20
Expired

(Expired 1-1-2011 by P.L.3-2008, SEC.239.)

IC 31-25-2-20.1
Gift, devise, or bequest of personal property; investment of money; child trust clearance account; commingling prohibited

Sec. 20.1. (a) The department may receive and administer a gift, devise, or bequest of personal property, including the income from real property, that is:

(1) to or for the benefit of a home or an institution in which formerly abused or neglected children are cared for under the supervision of the department; or

(2) for the benefit of children who are committed to the care or supervision of the department.

(b) The department may invest or reinvest money received under this section in the same types of securities in which life insurance

companies are authorized by law to invest the money of the life insurance companies.

(c) The following shall be kept in the child trust clearance account established under section 20.2 of this chapter and may not be commingled with any other fund or account or with money received from taxation:

(1) All money received by the department under this section.

(2) All money, proceeds, or income realized from real property or other investments.

(d) Subject to the approval of the director, money described in subsection (c)(1) or (c)(2) may be expended by the department in any manner consistent with the purposes of the child trust clearance account and with the intention of the donor.

As added by P.L.146-2008, SEC.567.

IC 31-25-2-20.2

Receipt and administration of money to or for the benefit of persons receiving payments or services; child trust clearance account; commingling prohibited

Sec. 20.2. (a) This section does not apply to:

(1) money received before January 1, 2009, to reimburse the county family and children's fund for expenditures made from the appropriations of the counties; or

(2) money received after December 31, 2008, to reimburse the department for expenditures made by the department for child services.

(b) The department may receive and administer money available to or for the benefit of a person receiving payments or services from the department. The following apply to all money received under this section:

(1) The money shall be kept in a special account known as the child trust clearance account and may not be commingled with any other money.

(2) The money may be expended by the department in any manner consistent with the following:

(A) The purpose of the child trust clearance account or with the intention of the donor of the money.

(B) Indiana law.

As added by P.L.146-2008, SEC.568.

IC 31-25-2-20.4

Citizen review panels; membership; appointment; duties; response to report; prohibited acts

Sec. 20.4. (a) The department shall establish at least three (3) citizen review panels in accordance with the requirements of the federal Child Abuse Prevention and Treatment Act under 42 U.S.C. 5106a.

(b) A citizen review panel consists of volunteer members who broadly represent the community in which the panel is established, including members who have expertise in the prevention and

treatment of child abuse and neglect.

(c) The department shall appoint the citizen review panels in the following manner:

(1) One (1) panel must be a community child protection team established in a county under IC 31-33-3-1, selected by the director of the department with the consent of the team.

(2) One (1) panel must be either:

(A) the statewide child fatality review committee established under IC 16-49-4; or

(B) a local child fatality review team established under IC 16-49-2;

selected by the director of the department with the consent of the committee or team.

(3) One (1) panel must be a foster care advisory panel consisting of at least five (5) and not more than eleven (11) members, selected to the extent feasible from the membership of any foster care advisory group previously established or recognized by the department. If the panel consists of seven (7) or fewer members, the panel must include at least one (1) foster parent licensed by the department and one (1) foster parent licensed by the department through a child placing agency licensed under IC 31-27-6. If the panel consists of more than seven (7) members, the panel must include two (2) foster parents licensed by the department and two (2) foster parents licensed by the department through a child placing agency licensed under IC 31-27-6. Additional members of the panel must include one (1) or more individuals who are employed by a child placing agency licensed under IC 31-27-6 and who provide services to foster families and children placed by the department in out-of-home placements, and may include other representatives of child welfare service providers or persons who provide training to current or prospective foster parents. All members of this panel must be individuals who are not employees of the department.

(4) The membership of any additional citizen review panels established under this section shall be determined by the director of the department, consistent with the guidelines for panel membership stated in subsection (b) and the purposes and functions of the panels as described in this section.

(5) Each citizen review panel shall be appointed for a term of three (3) years beginning July 1, 2007. Upon expiration of the term of the panel described in subdivision (1), the director of the department shall select a community child protection team established in a different county for the succeeding term. Upon expiration of the term of the panel described in subdivision (2), the director of the department shall select a different fatality review team, or committee, if available, for the succeeding term. Panels appointed under subdivision (3) or (4) may be reappointed for successive terms, in the discretion of the director of the department. The director may appoint individuals

as needed to fill vacancies that occur during the term of any panel appointed under subdivision (3) or (4).

(d) A citizen review panel shall evaluate the extent to which a child welfare agency is effectively discharging the agency's child protection responsibilities by examining:

(1) the policies and procedures of child welfare agencies;

(2) if appropriate, specific child protective services cases; and

(3) other criteria the citizen review panel considers important to ensure the protection of children.

(e) Each citizen review panel shall:

(1) meet at least one (1) time every three (3) months; and

(2) prepare and make available to the department and the public an annual report that contains a summary of the activities of the citizen review panel.

(f) The department shall, not more than six (6) months after the date the department receives a report from a citizen review panel under subsection (e), submit to the citizen review panel a written response indicating whether and how the department will incorporate the recommendations of the citizen review panel. The department shall at the same time provide appropriate child welfare agencies with copies of the department's written response.

(g) A child welfare agency shall make all reports and other materials in the child welfare agency's possession available to a citizen review panel established under this section, including any reports and materials that the child welfare agency has received from other agencies.

(h) A member of a citizen review panel may not disclose to a person or government official any identifying information that is provided to the citizen review panel about:

(1) a specific child protective services case or child welfare agency case;

(2) a child or member of the child's family who is the subject of a child protective services assessment; or

(3) any other individuals identified in confidential reports, documents, or other materials.

(i) If a member of a citizen review panel violates subsection (h), the department may remove the member from the citizen review panel.

(j) A child welfare agency shall cooperate and work with each citizen review panel established under this section.

As added by P.L.138-2007, SEC.46. Amended by P.L.131-2009, SEC.32; P.L.128-2012, SEC.88; P.L.119-2013, SEC.8.

IC 31-25-2-21

Transitional services plan

Sec. 21. (a) As used in this section, "transitional services plan" means a plan that provides information concerning the following to an individual described in subsection (b):

(1) Education.

(2) Employment.

(3) Housing.
(4) Health care.
(5) Development of problem solving skills.
(6) Available local, state, and federal financial assistance.

(b) The department shall implement a program that provides a transitional services plan to the following:

(1) An individual who has become or will become:
(A) eighteen (18) years of age; or
(B) emancipated;
while receiving foster care.

(2) An individual who:
(A) is at least eighteen (18) but less than twenty (20) years of age; and
(B) is receiving collaborative care under IC 31-28-5.8.

(c) The department shall adopt rules under IC 4-22-2, including emergency rules under IC 4-22-2-37.1, necessary to implement the program described in this section.

As added by P.L.143-2008, SEC.6. Amended by P.L.131-2009, SEC.33; P.L.48-2012, SEC.24.

IC 31-25-2-22

Provide list to state department of health; electronic means

Sec. 22. (a) The department shall, at least one (1) time each month, provide to the state department of health a list containing the names and dates of birth of children identified in the records of the department to whom all of the following apply:

(1) The parent-child relationship between the child and a birth parent was terminated under IC 31-35 or IC 31-6-5-1 (before its repeal).
(2) The child is less than twenty-one (21) years of age.
(3) The name of the child has not been included previously in a list provided to the department of health under this section.

(b) The department shall provide the list described under subsection (a) through electronic means agreed to by the department and the state department of health.

As added by P.L.191-2011, SEC.56.

IC 31-25-2-23

Permanency roundtable duties; residential placement committee

Sec. 23. (a) The department shall establish a permanency roundtable (as defined in IC 31-9-2-88.7). The permanency roundtable shall review:

(1) a child's permanency plan under IC 31-34-21-5.7 if the child is placed in a child caring institution, group home, or private secure facility; and
(2) a child's permanency plan under IC 31-37-20-3 if the child is placed in a child caring institution, group home, or private secure facility;

and make recommendations to the court.

(b) The department shall establish a residential placement

committee (as defined in IC 31-9-2-109.5). The residential placement committee shall, before a case plan is approved by the local office or court, review:

(1) a child's placement in a child caring institution, group home, or private secure facility under IC 31-34-15-2; and

(2) a child's placement in a child caring institution, group home, or private secure facility under IC 31-37-19-1.5 if the placement is contrary to the department's recommendation under IC 31-37-17-1.4;

and make recommendations to the court.

As added by P.L.48-2012, SEC.25. Amended by P.L.123-2014, SEC.8.

IC 31-25-2-24

Report concerning child fatalities resulting from child abuse or neglect

Sec. 24. The department shall annually prepare a report concerning all child fatalities in Indiana that are the result of child abuse or neglect. The report must include the following information:

(1) A summary of the information gathered concerning child fatalities resulting from abuse or neglect.

(2) Demographic information regarding victims, perpetrators, and households involved in child fatalities resulting from abuse or neglect.

(3) An analysis of the primary risk factors involved in child fatalities resulting from abuse or neglect.

(4) A summary of the most frequent causes of child fatalities resulting from abuse or neglect.

(5) A description of the manner in which the information was assembled.

The department shall post the report prepared under this section on the department's Internet web site.

As added by P.L.119-2013, SEC.9.

IC 31-25-3

Chapter 3. Child Support Bureau

IC 31-25-3-1

Child support bureau; compliance; state central collection unit

Sec. 1. (a) The child support bureau is established within the department. The bureau is charged with the administration of Title IV-D of the federal Social Security Act.

(b) The state's plan for the administration of Title IV-D must comply with all provisions of state law and with the federal statutes and regulations governing the program.

(c) The state central collection unit is established within the child support bureau. The unit shall collect all noncash child support payments and process child support paid through income withholding.

As added by P.L.145-2006, SEC.271. Amended by P.L.146-2006, SEC.18; P.L.1-2007, SEC.197.

IC 31-25-3-2

Duties of bureau; access to information

Sec. 2. (a) The bureau shall operate the state parent locator service. The bureau shall make all necessary requests and responses to the federal parent locator service and to the parent locator services of the other states.

(b) To carry out the bureau's responsibilities under this chapter, the bureau or a prosecuting attorney, private attorney, or private entity operating under an agreement or contract described in IC 31-25-4-13.1 shall, subject to policies adopted by the superintendent of the state police department concerning the disclosure of law enforcement records, be granted access to information that is contained in an information system used by the state to locate an individual for purposes relating to motor vehicles or law enforcement.

(c) To carry out the bureau's responsibilities under this chapter, the bureau, through the parent locator service, may request information and assistance from a state, county, city, or town agency. Officers and employees of a state, county, city, or town agency shall cooperate with the bureau in determining the location of a parent who:

(1) owes child support; or

(2) has abandoned or deserted a child;

by providing the pertinent information relative to the location, income, and property of the parent, notwithstanding any other statute making the information confidential.

(d) Notwithstanding any other statute making the information confidential, each person doing business in Indiana shall provide the bureau or an agent of the bureau with the following information, if available, upon receipt of the certification described in subsection (e):

(1) Full name of the parent.

(2) Social Security number of the parent.

(3) Date of birth of the parent.

(4) Address of the parent's residence.
(5) Amount of wages earned by the parent.
(6) Number of dependents claimed by the parent on state and federal tax withholding forms.
(7) Name and address of the parent's employer.
(8) Name and address of any financial institution maintaining an account for the parent.
(9) Address of any real property owned by the parent.
(10) Name and address of the parent's health insurance carrier and health coverage policy number.

(e) The parent locator service shall certify that the information requested in subsection (d) is for the purpose of locating a parent who owes child support or who has abandoned a child and that the information obtained is to be treated as confidential by the bureau and any other state to which the information is released.

(f) A business in Indiana and each unit of state and local government shall comply with an administrative subpoena issued by a Title IV-D agency in another jurisdiction. The information requested may not be provided unless the Title IV-D agency of the other jurisdiction certifies that the information will be treated as confidential. The business or unit of government shall provide the Title IV-D agency of the other jurisdiction with the information listed in subsection (d), if available, if requested in the subpoena, upon certification by the Title IV-D agency of the other jurisdiction that the information is for the purpose of locating a parent who owes child support or who has abandoned or deserted a child.

(g) A person may not knowingly refuse to give the bureau, the bureau's agents, or the Title IV-D agency of another jurisdiction the following:

(1) The name of a parent of a child for whom the state is providing public assistance.
(2) Information that may assist the parent locator service or other jurisdiction in locating the parent of a child.

(h) Information obtained under this section may not be used in a criminal prosecution against the informant.

(i) A person may not knowingly give the bureau or the Title IV-D agency of another jurisdiction the incorrect name of a parent of a child or knowingly give the parent locator service incorrect information on the parent's whereabouts for the purpose of concealing the identity of the real parent of the child or the location of the parent.

As added by P.L.145-2006, SEC.271. Amended by P.L.80-2010, SEC.46.

IC 31-25-3-3
Issuance of subpoenas

Sec. 3. The bureau established by section 1 of this chapter or an agent of the bureau may issue a subpoena under Indiana Trial Rule 45 to obtain any financial or other information needed to establish, modify, or enforce a child support order.

As added by P.L.103-2007, SEC.44.

IC 31-25-3-4
Access to information and records; immunity from liability; confidential

Sec. 4. (a) Notwithstanding any other law, the bureau or a prosecuting attorney, private attorney, or private entity that is operating under an agreement or contract described in IC 31-25-4-13.1 is entitled to obtain access, at no cost to the bureau or the prosecuting attorney, private attorney, or private entity that is operating under an agreement or contract described in IC 31-25-4-13.1, to the following records from the following agencies or entities:

(1) The following records of state and local agencies:

(A) Records of birth, marriage, and death.

(B) Tax and revenue records, including information related to residence addresses, employers, and assets.

(C) Records concerning real and titled personal property.

(D) Records of occupational, professional, and recreational licenses or permits.

(E) Records concerning the ownership and control of corporations, partnerships, and other business entities.

(F) Employment security records.

(G) Records of agencies administering public assistance programs.

(H) Records of the bureau of motor vehicles.

(I) Records of:

(i) the department of correction; and

(ii) county and municipal correction or confinement facilities.

(2) Subject to subsection (d), records of public utilities and cable television companies that relate to persons who owe or are owed support, or against whom a support obligation is sought, including:

(A) the person's name and address; and

(B) the name and address of the person's employer.

(3) Records held by financial institutions as provided under IC 31-25-4-31.

(4) Subject to policies adopted by the superintendent of the state police department concerning the disclosure of law enforcement records, any other records of a state or local agency.

(b) Upon the request of the bureau or a prosecuting attorney, private attorney, or private entity that is operating under an agreement or contract described in IC 31-25-4-13.1, an employer shall provide information related to the employment, earnings, benefits, and residential address and phone number of any employee.

(c) An agency or entity that possesses records described in subsection (a)(1) and (a)(3) shall provide information and records upon the request of the bureau or a prosecuting attorney, private attorney, or private entity that is operating under an agreement or

contract under IC 31-25-4-13.1. Information described in this subsection shall be provided in response to a subpoena, or the bureau may enter into agreements to provide for electronic access to these records.

(d) An entity listed subsection (a)(2) shall provide the information only in response to a judicial or administrative subpoena issued by the bureau.

(e) An agency or entity described under subsection (a) that provides information under a request or subpoena under this section is not liable for disclosing information under the request or subpoena.

(f) All information received under this section is confidential. The bureau may disclose this information only as provided under IC 31-25-4-21.

As added by P.L.80-2010, SEC.47.

IC 31-25-4

Chapter 4. Child Support Provisions of Title IV-D of the Federal Social Security Act

IC 31-25-4-1

"Bureau"

Sec. 1. As used in this chapter, "bureau" refers to the child support bureau established by IC 31-25-3-1.

As added by P.L.145-2006, SEC.271.

IC 31-25-4-2

"Delinquent"

Sec. 2. As used in this chapter, "delinquent" means at least:

(1) two thousand dollars ($2,000); or

(2) three (3) months;

past due on payment of court ordered child support.

As added by P.L.145-2006, SEC.271.

IC 31-25-4-3

"Account"

Sec. 3. (a) As used in this chapter with regard to a financial institution data match, "account" has the meaning set forth in 42 U.S.C. 666, and includes any of the following:

(1) A demand deposit account.

(2) A checking or negotiable order of withdrawal account.

(3) A savings account.

(4) A timed deposit account.

(5) A money market mutual fund account.

(b) As used in this chapter, "financial institution" has the meaning set forth in 42 U.S.C. 666, and includes the following:

(1) A depository institution, as defined in Section 3(c) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)).

(2) An institution affiliated party, as defined in Section 3(u) of the Federal Deposit Insurance Act (12 U.S.C. 1813(u)).

(3) A federal or state credit union, as defined in Section 101 of the Federal Credit Union Act (12 U.S.C. 1752), including an institution affiliated party of a credit union (as defined in Section 206(r) of the Act).

(4) A benefit association, insurance company, safe deposit company, money market mutual fund, or similar entity authorized to do business in Indiana.

As added by P.L.145-2006, SEC.271.

IC 31-25-4-4

"Obligor"

Sec. 4. As used in this chapter, "obligor" means a person whose support obligation is enforced by the Title IV-D agency.

As added by P.L.145-2006, SEC.271.

IC 31-25-4-5

"Plan"

Sec. 5. As used in this chapter, "plan" refers to the state plan developed to implement the provisions of Title IV-D of the federal Social Security Act.

As added by P.L.145-2006, SEC.271.

IC 31-25-4-6

Repealed

(Repealed by P.L.1-2007, SEC.248.)

IC 31-25-4-7

Duties of bureau

Sec. 7. The bureau shall do the following:

(1) Develop and implement the state's plan for the administration of Title IV-D. The plan must comply with all provisions of state law and with the federal statutes and regulations governing the program.

(2) Evaluate formally the quality, efficiency, effectiveness, and scope of services provided under the plan developed and approved by the governor and the United States Department of Health and Human Services.

(3) Control financially the operation of the plan.

(4) Coordinate activities relating to and in compliance with the requirements of the state's reciprocal enforcement of support law of cases being pursued under the state plan. The bureau shall make requests to the United States Department of Health and Human Services Office of Child Support Enforcement for use of the federal parent locator service, the other states' parent locator services, the federal district courts, and the Internal Revenue Service.

(5) Operate the state parent locator service.

As added by P.L.145-2006, SEC.271.

IC 31-25-4-8

Additional duties of bureau

Sec. 8. In addition to the duties imposed by section 7 of this chapter, the bureau shall do the following:

(1) Perform one (1) of the following under IC 22-4-39:

(A) Enter into an agreement with each individual who owes a child support obligation being enforced by the child support bureau and who is eligible for unemployment compensation benefits under IC 22-4 to have a specified amount withheld from the benefits otherwise payable to the individual, not to exceed the individual's unemployment compensation weekly benefit amount.

(B) Bring legal process to require the withholding of specified amounts from the individual's unemployment compensation benefits.

(C) Accept an amount specified by the individual to be deducted and withheld by the department of workforce

development.

(2) Notify the department of workforce development of the amounts to be deducted from an individual's unemployment compensation as determined under subdivision (1), not to exceed the individual's weekly benefit amount of unemployment compensation.

(3) Reimburse the department of workforce development for the administrative costs incurred by the department under IC 22-4-39.

As added by P.L.145-2006, SEC.271.

IC 31-25-4-8.5
Duties related to interception of winnings and prizes

Sec. 8.5. In addition to the duties imposed by sections 7 and 8 of this chapter, the bureau shall do the following:

(1) Share data regarding obligors who are delinquent with:

(A) a licensed owner, operating agent, and trustee in accordance with IC 4-33-4-27;

(B) a permit holder and trustee in accordance with IC 4-35-4-16; and

(C) the state lottery commission;

to allow for the interception of cash winnings and prizes from the obligors.

(2) Distribute money collected from the persons described in subdivision (1) according to federal child support laws and regulations.

As added by P.L.80-2010, SEC.48.

IC 31-25-4-9
Federal requirements

Sec. 9. The bureau shall consider and follow the federal requirements imposed by statute and regulation governing the formation of the state plan.

As added by P.L.145-2006, SEC.271.

IC 31-25-4-10
Agreements and communications with Title IV-A administrator; time frame requirement

Sec. 10. The bureau shall make the agreements and maintain the communications necessary with the agency that administers Title IV-A of the federal Social Security Act to ensure proper operation of the total program. Prompt notice for action in all cases must be given between the bureau and the agency that administers Title IV-A of the Federal Social Security Act. Cases shall be handled within the time frame established by the federal statutes and regulations governing the program's administration.

As added by P.L.145-2006, SEC.271.

IC 31-25-4-11
State case registry; contents

Sec. 11. (a) The bureau shall maintain the state case registry required under 42 U.S.C. 654A(e).

(b) The state case registry must contain the following:

(1) Records of each case in which the bureau provides services.

(2) Each child support order established or modified after September 30, 1998.

(c) To carry out the bureau's responsibilities under this section, each circuit court clerk shall enter into an agreement with the bureau to provide all information necessary for the registry.

As added by P.L.145-2006, SEC.271.

IC 31-25-4-12

Federal courts; contact

Sec. 12. The bureau shall make all contact with the federal courts necessary under federal law and guidelines.

As added by P.L.145-2006, SEC.271.

IC 31-25-4-13

Repealed

(Repealed by P.L.1-2007, SEC.248.)

IC 31-25-4-13.1

Agreements with local government officials; contracting; attorney-client relationship; informing applicant; service level stipulation

Sec. 13.1. (a) This section applies after December 31, 2006.

(b) The bureau shall make the agreements necessary for the effective administration of the plan with local governmental officials within Indiana. The bureau shall contract with:

(1) a prosecuting attorney;

(2) a private attorney or private entity if the bureau determines that a reasonable contract cannot be entered into with a prosecuting attorney and the determination is approved by at least two-thirds (2/3) of the interim study committee on public health, behavioral health, and human services established by IC 2-5-1.3-4; or

(3) a collection agency licensed under IC 25-11 to collect arrearages on child support orders under which collections have not been made on arrearages for at least two (2) years;

in each judicial circuit to undertake activities required to be performed under Title IV-D of the federal Social Security Act (42 U.S.C. 651), including establishment of paternity, establishment, enforcement, and modification of child support orders, activities under the Uniform Reciprocal Enforcement of Support Act (IC 31-2-1, before its repeal) or the Uniform Interstate Family Support Act (IC 31-18, or IC 31-1.5 before its repeal), and if the contract is with a prosecuting attorney, prosecutions of welfare fraud.

(c) The hiring of a private attorney or private entity by an agreement or a contract made under this section is not subject to the approval of the attorney general under IC 4-6-5-3. An agreement or

a contract made under this section is not subject to IC 4-13-2-14.3 or IC 5-22.

(d) Subject to section 14.1 of this chapter, a prosecuting attorney with which the bureau contracts under subsection (b):

(1) may contract with a collection agency licensed under IC 25-11 to provide child support enforcement services; and

(2) shall contract with a collection agency licensed under IC 25-11 to collect arrearages on child support orders under which collections have not been made on arrearages for at least two (2) years.

(e) A prosecuting attorney or private attorney entering into an agreement or a contract with the bureau under this section enters into an attorney-client relationship with the state to represent the interests of the state in the effective administration of the plan and not the interests of any other person. An attorney-client relationship is not created with any other person by reason of an agreement or contract with the bureau.

(f) At the time that an application for child support services is made, the applicant must be informed that:

(1) an attorney who provides services for the child support bureau is the attorney for the state and is not providing legal representation to the applicant; and

(2) communications made by the applicant to the attorney and the advice given by the attorney to the applicant are not confidential communications protected by the privilege provided under IC 34-46-3-1.

(g) A prosecuting attorney or private attorney who contracts or agrees under this section to undertake activities required to be performed under Title IV-D is not required to mediate, resolve, or litigate a dispute between the parties relating to:

(1) the amount of parenting time or parenting time credit; or

(2) the assignment of the right to claim a child as a dependent for federal and state tax purposes.

(h) An agreement made under subsection (b) must contain requirements stipulating service levels a prosecuting attorney or private entity is expected to meet. The bureau shall disburse incentive money based on whether a prosecuting attorney or private entity meets service levels stipulated in an agreement made under subsection (b).

As added by P.L.146-2006, SEC.20. Amended by P.L.210-2011, SEC.5; P.L.53-2014, SEC.143.

IC 31-25-4-14
Repealed

(Repealed by P.L.1-2007, SEC.248.)

IC 31-25-4-14.1
Program to contract with collection agency; duties; contract requirements; costs

Sec. 14.1. (a) This section applies after December 31, 2006.

(b) The bureau shall establish a program to allow a prosecuting attorney with which the bureau has contracted under section 13.1 of this chapter to contract with a collection agency licensed under IC 25-11 to provide child support enforcement services.

(c) The bureau shall:

(1) establish a list of approved collection agencies with which a prosecuting attorney may contract under this section;

(2) establish requirements for participation in the program established under this section to assure:

(A) effective administration of the plan; and

(B) compliance with all federal and state statutes, regulations, and rules;

(3) update and review the list described in subdivision (1) and forward a copy of the updated list to each prosecuting attorney annually; and

(4) preapprove or approve all contracts between a collection agency and a prosecuting attorney.

(d) A contract between a prosecuting attorney and a collection agency under this section must include the following provisions:

(1) A provision that records of a contractor operated child support enforcement system are subject to inspection and copying to the same extent the records would be subject to inspection and copying if the contractor were a public agency under IC 5-14-3.

(2) A provision that records that are provided by a contractor to the prosecuting attorney that relate to compliance by the contractor with the terms of the contract are subject to inspection and copying in accordance with IC 5-14-3.

(e) The bureau is not liable for any costs related to a contract entered into under this section that are disallowed for reimbursement by the federal government under the Title IV-D program of the federal Social Security Act.

(f) The bureau shall treat costs incurred by a prosecuting attorney under this section as administrative costs of the prosecuting attorney.

(g) Contracts between a collection agency licensed under IC 25-11 and the bureau or a prosecuting attorney:

(1) must:

(A) be in writing;

(B) include:

(i) all fees, charges, and costs, including administrative and application fees; and

(ii) the right of the bureau or the prosecuting attorney to cancel the contract at any time;

(C) require the collection agency, upon the request of the bureau or the prosecuting attorney, to provide the:

(i) source of each payment received for arrearage on a child support order;

(ii) form of each payment received for arrearage on a child support order;

(iii) amount and percentage that is deducted as a fee or a

charge from each payment of arrearage on a child support order; and

(iv) amount of arrearage owed under a child support order; and

(D) be one (1) year renewable contracts; and

(2) may be negotiable contingency contracts in which a collection agency may not collect a fee that exceeds fifteen percent (15%) of the arrearages collected per case.

(h) A collection agency that contracts with the bureau or a prosecuting attorney under this section may, in addition to the collection of arrearages on a child support order, assess and collect from an obligor all fees, charges, costs, and other expenses as provided under the terms of the contract described in subsection (g).
As added by P.L.146-2006, SEC.22.

IC 31-25-4-15
Court assistants; appointment; agreements for services; standards

Sec. 15. (a) The judge of a court having jurisdiction over actions arising under Title IV-D of the Social Security Act (42 U.S.C. 651) shall, when necessary to satisfy the federal requirement of expedited process for obtaining and enforcing support orders (42 U.S.C. 666(a)(2); 42 CFR 303.101), appoint assistants who meet the standards established by the judicial conference of Indiana under subsection (d), including:

(1) court commissioners;

(2) hearing examiners;

(3) masters; and

(4) referees;

to make findings of fact and recommendations for the judge's approval in actions arising under Title IV-D of the Social Security Act (42 U.S.C. 651 et seq.).

(b) If appointment of a court assistant is required under subsection (a), the bureau shall enter into an agreement with the courts for services associated with cases arising under Title IV-D of the Social Security Act that are performed by:

(1) a court assistant appointed under subsection (a); and

(2) administrative and supportive personnel to the court assistant, including the following:

(A) A bailiff.

(B) A stenographer.

(C) A court reporter.

(c) The agreements entered into under subsection (b) are not subject to approval by the attorney general under IC 4-13-2-14.3.

(d) The judicial conference of Indiana shall establish educational and occupational standards for an individual to be employed as an assistant under subsection (a).
As added by P.L.145-2006, SEC.271.

IC 31-25-4-16
Contracts with nongovernmental providers

Sec. 16. The bureau may contract for services from nongovernmental providers under the guidelines established for all state agency contracts.
As added by P.L.145-2006, SEC.271.

IC 31-25-4-17
Support related duties of bureau

Sec. 17. (a) The bureau shall do the following:

(1) Collect support payments when the payments have been assigned to the state by the application for assistance under Title IV-A.

(2) Assist in obtaining a support order, including an order for health insurance coverage under:

(A) IC 27-8-23; or

(B) IC 31-16-6-4;

when there is no existing order and assistance is sought.

(3) Assist mothers of children born out of wedlock in establishing paternity and obtaining a support order, including an order for health insurance coverage under IC 27-8-23, when the mother has applied for assistance.

(4) Implement immediate income withholding in any Title IV-D case, in accordance with 42 U.S.C. 666(a) and (b), without an order issued by a court or an administrative agency.

(5) Enforce intrastate and interstate support orders using high volume automated enforcement features.

(6) Use a simplified procedure for the review and adjustment of support orders as set forth in 42 U.S.C. 666(a)(10).

(7) In any Title IV-D case, petition:

(A) a court to:

(i) establish paternity for a child born out of wedlock; and

(ii) establish a support order, including an order for health insurance coverage under IC 27-8-23 or IC 31-16-6-4; and

(B) a court to establish or modify a support order, including an order for health insurance coverage under IC 27-8-23, IC 31-14-11-3 (before its repeal), or IC 31-16-6-4, if:

(i) there is no existing support order; or

(ii) the existing order does not include a provision for private health insurance.

(b) Whenever the bureau collects support payments on behalf of an individual who is no longer a member of a household that receives Title IV-A cash payments, the collected support payments (except collections made through a federal tax refund offset) shall be promptly distributed in the following order:

(1) Payment to the recipient of the court ordered support obligation for the month that the support payment is received.

(2) Payment to the recipient of the support payment arrearages that have accrued during any period when the recipient was not a member of a household receiving Title IV-A assistance.

(3) Payment to the state in an amount not to exceed the lesser of:

(A) the total amount of past public assistance paid to the

recipient's family; or

(B) the amount assigned to the state by the recipient under IC 12-14-7-1.

(4) Payment of support payment arrearages owed to the recipient.

(5) Payment of any other support payments payable to the recipient.

(c) Whenever the bureau receives a payment through a federal tax refund offset on behalf of an individual who has received or is receiving Title IV-A assistance, the child support payment shall be distributed as follows:

(1) To the state, an amount not to exceed the lesser of:

(A) the total amount of past public assistance paid to the individual's family; or

(B) the amount assigned to the state by the individual under IC 12-14-7-1.

(2) To the individual, any amounts remaining after the distribution under subdivision (1).

(d) Except as provided in section 19.5 of this chapter, whenever the bureau collects a child support payment from any source on behalf of an individual who has never received Title IV-A assistance, the bureau shall forward all money collected to the individual.

(e) Whenever the bureau receives a child support payment on behalf of an individual who currently receives a Title IV-A cash payment or an individual whose cash payment was recouped, the child support payment shall be distributed as follows:

(1) To the state, an amount not to exceed the lesser of:

(A) the total amount of past public assistance paid to the individual's family; or

(B) the amount assigned to the state by the individual under IC 12-14-7-1.

(2) To the individual, any amounts remaining after the distribution under subdivision (1).

(f) Unless otherwise required by federal law, not more than seventy-five (75) days after a written request by a recipient, the bureau shall provide an accounting report to the recipient that identifies the bureau's claim to a child support payment or arrearage.

(g) The bureau, the department of child services, and the department of state revenue may not charge a custodial parent a fee to seek or receive a payment through a federal tax refund offset as described in subsection (c).

(h) When the payment of support has been assigned to the state by the application of assistance under Title IV-A or Title IV-E, the Title IV-D agency shall:

(1) first provide notice to the obligee and the obligor that the payment of support has been assigned to the state; and

(2) direct the clerk of court or the state central collection unit to forward the child support payment directly to the Title IV-D agency without further notice of the court.

(i) A payment directed to the Title IV-D agency under subsection

(h) shall be disbursed in accordance with federal regulations governing the Title IV-D program.
As added by P.L.145-2006, SEC.271. Amended by P.L.103-2007, SEC.45; P.L.80-2010, SEC.49; P.L.128-2012, SEC.89; P.L.207-2013, SEC.51; P.L.123-2014, SEC.9.

IC 31-25-4-18
Order for genetic testing to establish paternity; income withholding

Sec. 18. (a) Under 42 U.S.C. 666, the bureau has the authority, without a court order, to order genetic testing to establish paternity.

(b) The bureau may not order genetic testing as provided under this section without a request from a local child support attorney where an order for child support is entered.

(c) The bureau shall recognize and enforce the authority of a state agency from another state to take any action as required under 42 U.S.C. 666(c).

(d) The bureau shall notify the appropriate circuit court clerk in any case where an action of the bureau results in income withholding or a change of payee of a child support order in a Title IV-D case.

(e) In accordance with 42 U.S.C. 654B(a)(3), the bureau shall provide a single address to which income withholding payments may be sent.
As added by P.L.145-2006, SEC.271.

IC 31-25-4-19
Services for other than TANF recipients or applicants; application; fees

Sec. 19. All services provided under section 17 of this chapter and IC 31-25-3-2 must be available to individuals (other than recipients or applicants for the federal Temporary Assistance for Needy Families (TANF) program (45 CFR 265)) upon application for the services, as required by 42 U.S.C. 654(6). An application fee as set by the Title IV-D agency must be paid in accordance with the department's rules adopted under IC 4-22-2. Fees other than the application fee must be imposed in accord with federal law governing this program.
As added by P.L.145-2006, SEC.271. Amended by P.L.128-2012, SEC.90.

IC 31-25-4-19.5
Title IV-D agency collection fee

Sec. 19.5. (a) If a Title IV-D agency collects at least five hundred dollars ($500) of child support payments on behalf of an individual who has never received Title IV-A assistance, the Title IV-D agency shall collect a fee in accordance with 42 U.S.C. 654(6). The Title IV-D agency may collect the fee by issuance and implementation of an income withholding order.

(b) The Title IV-D agency shall collect the fee described in subsection (a) from one (1) of the following:

(1) Any amount of child support payments that exceeds five

hundred dollars ($500) collected on behalf of the individual who applied for the services of collecting the child support payments.

(2) The parent who owes the child support obligation being enforced by the Title IV-D agency.

(3) State funds appropriated for the purpose of paying a fee under subsection (a).

As added by P.L.103-2007, SEC.46.

IC 31-25-4-20

Authority to receive federal funds and distribute money collected

Sec. 20. The bureau may receive the federal money available for the administration of Title IV-D of the federal Social Security Act and shall distribute money collected in accordance with federal regulations.

As added by P.L.145-2006, SEC.271.

IC 31-25-4-21

Confidential information; safeguards; necessary disclosures

Sec. 21. (a) The bureau shall observe all possible safeguards for information obtained by the bureau with the minimum standard for the safeguards to be the federal regulations governing the safeguarding of information under this program.

(b) The bureau or the prosecuting attorney may not disclose information obtained through the parent locator service, except to the extent necessary to fulfill a duty under this chapter.

As added by P.L.145-2006, SEC.271.

IC 31-25-4-22

Disclosure of information to consumer reporting agencies; procedures

Sec. 22. The bureau shall establish procedures for providing information to a consumer reporting agency (as defined by the federal Fair Credit Reporting Act (15 U.S.C. 1681a(f))) concerning the amount of overdue support owed by a parent. Information provided under this section must be provided in accordance with federal statutes and regulations governing the Title IV-D program (42 U.S.C. 651).

As added by P.L.145-2006, SEC.271.

IC 31-25-4-23

Title IV-D agency; incentive payments; distribution from county treasury

Sec. 23. (a) Subject to subsection (d), the Title IV-D agency shall provide incentive payments to counties for enforcing and collecting the support rights that have been assigned to the state. The incentive payments shall be made by the Title IV-D agency directly to the county and deposited in the county treasury for distribution on a quarterly basis and in the following manner:

(1) Twenty-two and two-tenths percent (22.2%) of the incentive payments shall be distributed to the Title IV-D incentive fund

established in accordance with section 23.5 of this chapter by each county that receives payments under this subdivision.

(2) Thirty-three and four-tenths percent (33.4%) of the incentive payments shall be distributed to the operating budget of the prosecuting attorney.

(3) Twenty-two and two-tenths percent (22.2%) of the incentive payments shall be distributed to the operating budget of the circuit court clerk.

(b) Notwithstanding IC 36-2-5-2(b), distribution from the county treasury under subsection (a) shall be made without the necessity of first obtaining an appropriation from the county fiscal body.

(c) The amount that a county receives and the terms under which the incentive payment is paid must be in accordance with relevant federal statutes and the federal regulations promulgated under the statutes. However, amounts received as incentive payments may not, without the approval of the county fiscal body, be used to increase or supplement the salary of an elected official. The amounts received as incentive payments must be used to supplement, rather than take the place of, other funds used for Title IV-D program activities.

(d) The Title IV-D agency shall retain twenty-two and two-tenths percent (22.2%) of the incentive payments described in subsection (a).

As added by P.L.145-2006, SEC.271. Amended by P.L.146-2006, SEC.23; P.L.1-2007, SEC.198; P.L.162-2011, SEC.20.

IC 31-25-4-23.5

Title IV-D incentive fund; use of money

Sec. 23.5. (a) Each county that receives payments under section 23(a)(1) of this chapter shall establish a Title IV-D incentive fund.

(b) The incentive payments under section 23(a)(1) of this chapter shall be paid into the fund.

(c) Money in the fund may be used only for child support enforcement purposes.

(d) Money in the fund does not revert to any other fund.

As added by P.L.162-2011, SEC.21.

IC 31-25-4-24

Duties of circuit court clerk; support money; cash payments

Sec. 24. (a) Each circuit court clerk shall do the following:

(1) Before January 1, 2007, receive support money assigned to the state and paid under the terms of a court order in the clerk's jurisdiction and pay the money to the Title IV-D agency within the time limits established by P.L.93-647, as amended, and any related regulations that are promulgated.

(2) Maintain all records concerning the payment or nonpayment of support money that have been assigned to the state and transmit the records to the Title IV-D agency upon request.

(3) Contract with the Title IV-D agency for the performance and the remuneration for the performance of duties prescribed in this section.

(b) Beginning January 1, 2007, for purposes of subsection (a)(1), each circuit court clerk may accept only support money that is paid in cash.
As added by P.L.145-2006, SEC.271. Amended by P.L.146-2006, SEC.24; P.L.1-2007, SEC.199.

IC 31-25-4-25
Amounts distributed from department of child services
Sec. 25. The amounts appropriated for duties performed by prosecuting attorneys, circuit court clerks, or other agents under this chapter shall be distributed directly from the department of child services.
As added by P.L.145-2006, SEC.271. Amended by P.L.146-2006, SEC.25; P.L.1-2007, SEC.200.

IC 31-25-4-26
Appeal right of aggrieved TANF recipient; issue limitation; corrective action on erroneous records
Sec. 26. (a) A recipient of the federal Temporary Assistance for Needy Families (TANF) program (45 CFR 265) who is aggrieved by the action of the Title IV-D agency in paying or not paying money to the recipient out of the support money collected by the agency under an assignment to Indiana may appeal the action to the Title IV-D agency. The appeal may not be used to redetermine eligibility for assistance, but must be limited to the issue as to whether upon the records before the Title IV-D agency proper distribution was made out of the support money collected.
(b) If, as a result of the appeal, the Title IV-D agency has reasonable cause to believe that the records in the agency's possession concerning the appellant are in error, the Title IV-D agency shall notify the agency supplying the records of possible errors and request corrective action.
(c) The appeal hearing must be held in accordance with the rules of the department.
As added by P.L.145-2006, SEC.271.

IC 31-25-4-27
Rules implementing Title IV-D
Sec. 27. The director of the department shall adopt rules necessary to implement Title IV-D of the federal Social Security Act and this chapter. The department shall send a copy of each proposed or adopted rule to the interim public health, behavioral health, and human services established by IC 2-5-1.3-4 not later than ten (10) days after proposal or adoption.
As added by P.L.145-2006, SEC.271. Amended by P.L.53-2014, SEC.144.

IC 31-25-4-28
Appropriation
Sec. 28. A sufficient amount must be appropriated annually out of

the state general fund for the administration of this chapter.
As added by P.L.145-2006, SEC.271.

IC 31-25-4-29
Child support enforcement revolving funds

Sec. 29. (a) The bureau may, with the consent of the budget agency, establish child support enforcement revolving funds for the deposit of a part of the child support money collected by the bureau under this chapter.

(b) The amount of money to be deposited in a revolving fund established under this section shall be determined by the budget director. The budget agency shall annually review each revolving fund for the purpose of determining whether the fund's current level is adequate for the purpose of making disbursements described in subsection (c) and shall report to the budget director recommendations regarding changes in the amount of the fund. The budget director may authorize an increase or a decrease in the fund.

(c) Disbursements from a revolving fund established under this section may be made only to the bureau as follows:

(1) For payment of expenses incurred by the division in the collection of child support under this chapter.

(2) To enable the bureau to participate in child support collection projects offered by other units of government or the private sector.

(d) The bureau shall do the following:

(1) Request the budget agency to allocate, as needed, money from the revolving fund for the purposes described in subsection (c).

(2) Keep complete financial records of all transactions.

(3) Prepare, before the beginning of each fiscal year, an annual budget of proposed expenditures from the revolving funds.

(e) The bureau shall submit an annual budget to the budget agency for approval under subsection (d), and an expenditure in excess of the approved budget may not be made without the approval of the budget agency.

(f) Money in a revolving fund established under this section does not revert to any other fund at the end of a state fiscal year.

(g) The treasurer of state may invest the money in a revolving fund established under this section in the manner provided by law for investing money in the state general fund.
As added by P.L.145-2006, SEC.271.

IC 31-25-4-30
Child support obligation lien list; motor vehicle liens

Sec. 30. (a) The bureau shall, each month, prepare a list of each person against whom a child support obligation lien is held under IC 31-16-16-3 (or IC 31-2-11-9 before its repeal). The list must identify each person liable for a lien by name, address, amount of lien, and either Social Security number or employer identification number. The bureau shall certify a copy of the list to the bureau of

motor vehicles.

(b) The bureau of motor vehicles shall, before issuing the title to a motor vehicle under IC 9-17, determine whether the purchaser's or assignee's name is on the most recent monthly lien list. If the purchaser's or assignee's name is on the list, the bureau shall enter as a lien on the title the name of the state as the lienholder. The state's lien on a title under this section is subordinate to a prior perfected security interest if the interest is defined and perfected under any of the following:

(1) IC 26-1-9.1.
(2) IC 32-8 (before its repeal).
(3) IC 32-28.
(4) IC 32-29.
(5) IC 32-33.
(6) IC 32-34-10.

(c) A lien against the title under this section must be treated in the same manner as any other subordinate title lien.

(d) The bureau shall prescribe and furnish release forms for use by the bureau. When the amount of the lien is paid, the bureau shall issue to the person against whom the lien was held a release stating that the amount represented by the lien has been paid. The bureau may also issue a release to a person against whom the lien is held if the person has made arrangements, agreed to by the bureau, for the payment of the amount represented by the lien.

(e) The director of the bureau or the director's designee is the custodian of all titles having the state as the sole lienholder under this section. Upon receiving a title from the bureau of motor vehicles under this section, the director shall notify the owner of the motor vehicle.

(f) The bureau shall reimburse the bureau of motor vehicles for all costs incurred by the bureau in implementing this section.

As added by P.L.145-2006, SEC.271.

IC 31-25-4-31

Data match system with financial institutions to block account with child support lien

Sec. 31. (a) The bureau shall operate a data match system with each financial institution doing business in Indiana.

(b) Each financial institution doing business in Indiana shall provide information to the bureau on all noncustodial parents who:

(1) hold one (1) or more accounts with the financial institution; and
(2) are delinquent.

(c) In order to provide the information required under subsection (b), a financial institution shall either:

(1) identify noncustodial parents by comparing records maintained by the financial institution with records provided by the bureau by:
    (A) name; and
    (B) either Social Security number or tax identification

number; or

(2) submit to the bureau a report, in a form satisfactory to the bureau, that includes the Social Security number or tax identification number of each individual maintaining an account at the financial institution. The reports submitted under this subdivision must be accessible to:

(A) the department of state revenue established by IC 6-8.1-2-1 or its agents for use only in tax judgment and levy administration described in IC 6-8.1-8-8.7(b)(2); or

(B) the department of workforce development established by IC 22-4.1-2-1 or its agents for use only in the collection of unpaid final assessments described in IC 22-4-29-14(b)(2).

(d) The information required under subsection (b) must:

(1) be provided on a quarterly basis; and

(2) include the:

(A) name;

(B) address of record; and

(C) either the Social Security number or tax identification number;

of an individual identified under subsection (b).

(e) When the bureau has determined that the information required under subsection (d)(2) is identical for an individual who holds an account with a financial institution and an individual whose name appears on the quarterly list prepared by the bureau under section 30 of this chapter, the bureau shall provide a notice of the match if action is to be initiated to block or encumber the account by establishing a lien for child support payment to the:

(1) individual; and

(2) financial institution holding the account.

(f) The notice under section (e) must inform the individual that:

(1) the individual's account in a financial institution is subject to a child support lien; and

(2) the individual may file an appeal with the bureau within twenty (20) days after the date the notice was issued.

(g) The bureau shall hold a hearing under 465 IAC 3-3. The department's final action following a hearing held under this subsection is subject to judicial review as provided in 465 IAC 3-3.

(h) The state's lien on assets under this section is subordinate to any prior lien perfected by:

(1) a financial institution; or

(2) another legitimate lien holder.

(i) A lien issued under this section remains in effect until the earliest of:

(1) one hundred twenty (120) days after issuance;

(2) the date the asset on which the lien is issued is surrendered; or

(3) the date the lien is released by an action of the bureau.

(j) This section does not preclude a financial institution from exercising its right to:

(1) charge back or recoup a deposit to an account; or

(2) set off from an account held by the financial institution in which the noncustodial parent has an interest in any debts owed to the financial institution that existed before:

(A) the state's lien; and

(B) notification to the financial institution of the child support delinquency.

(k) A financial institution ordered to block or encumber an account under this section is entitled to collect its normally scheduled account activity fees to maintain the account during the period the account is blocked or encumbered.

(l) All information provided by a financial institution under this section is confidential and is available only to the bureau or its agents for use only in child support enforcement activities.

(m) A financial institution providing information required under this section is not liable for:

(1) disclosing the required information to the bureau, the department of state revenue established by IC 6-8.1-2-1, or the department of workforce development established by IC 22-4.1-2-1;

(2) blocking or surrendering any of an individual's assets in response to a lien imposed by:

(A) the bureau under this section; or

(B) a person or entity acting on behalf of the bureau; or

(3) any other action taken in good faith to comply with this section.

(n) The department shall pay a financial institution performing the data match required by this section a reasonable fee for providing the service that does not exceed the actual cost incurred by the financial institution.

(o) This section does not prevent the bureau or its agents from encumbering an obligor's account with a financial institution by any other remedy available for the enforcement of a child support order. *As added by P.L.145-2006, SEC.271. Amended by P.L.103-2007, SEC.47; P.L.138-2008, SEC.7; P.L.123-2014, SEC.10.*

IC 31-25-4-32

Finding obligor delinquent; notice; order to suspend driving privileges; licenses and permits; sanctions

Sec. 32. (a) When the Title IV-D agency finds that an obligor is delinquent, the Title IV-D agency shall send, to a verified address, a notice to the obligor that does the following:

(1) Specifies that the obligor is delinquent.

(2) Describes the amount of child support that the obligor is in arrears.

(3) States that unless the obligor:

(A) pays the obligor's child support arrearage in full;

(B) establishes a payment plan with the Title IV-D agency to pay the arrearage, which includes an income withholding order; or

(C) requests a hearing under section 33 of this chapter;

within twenty (20) days after the date the notice is mailed, the Title IV-D agency shall issue an order to the bureau of motor vehicles stating that the obligor is delinquent and that the obligor's driving privileges shall be suspended.

(4) Explains that the obligor has twenty (20) days after the notice is mailed to do one (1) of the following:

(A) Pay the obligor's child support arrearage in full.

(B) Establish a payment plan with the Title IV-D agency to pay the arrearage, which includes an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5.

(C) Request a hearing under section 33 of this chapter.

(5) Explains that if the obligor has not satisfied any of the requirements of subdivision (4) within twenty (20) days after the notice is mailed, that the Title IV-D agency shall issue a notice to:

(A) the board or department that regulates the obligor's profession or occupation, if any, that the obligor is delinquent and that the obligor may be subject to sanctions under IC 25-1-1.2, including suspension or revocation of the obligor's professional or occupational license;

(B) the supreme court disciplinary commission if the obligor is licensed to practice law;

(C) the department of education established by IC 20-19-3-1 if the obligor is a licensed teacher;

(D) the Indiana horse racing commission if the obligor holds or applies for a license issued under IC 4-31-6;

(E) the Indiana gaming commission if the obligor holds or applies for a license issued under IC 4-33 and IC 4-35;

(F) the commissioner of the department of insurance if the obligor holds or is an applicant for a license issued under IC 27-1-15.6, IC 27-1-15.8, or IC 27-10-3;

(G) the director of the department of natural resources if the obligor holds or is an applicant for a license issued by the department of natural resources under:

(i) IC 14-22-12 (fishing, hunting, and trapping licenses);

(ii) IC 14-22-14 (Lake Michigan commercial fishing license);

(iii) IC 14-22-16 (bait dealer's license);

(iv) IC 14-22-17 (mussel license);

(v) IC 14-22-19 (fur buyer's license);

(vi) IC 14-24-7 (nursery dealer's license); or

(vii) IC 14-31-3 (ginseng dealer's license); or

(H) the alcohol and tobacco commission if the obligor holds or applies for an employee's permit under IC 7.1-3-18-9(a)(3).

(6) Explains that the only basis for contesting the issuance of an order under subdivision (3) or (5) is a mistake of fact.

(7) Explains that an obligor may contest the Title IV-D agency's determination to issue an order under subdivision (3) or (5) by making written application to the Title IV-D agency within

twenty (20) days after the date the notice is mailed.

(8) Explains the procedures to:

(A) pay the obligor's child support arrearage in full; and

(B) establish a payment plan with the Title IV-D agency to pay the arrearage, which must include an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5.

(b) Whenever the Title IV-D agency finds that an obligor is delinquent and has failed to:

(1) pay the obligor's child support arrearage in full;

(2) establish a payment plan with the Title IV-D agency to pay the arrearage, which includes an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5; or

(3) request a hearing under section 33 of this chapter within twenty (20) days after the date the notice described in subsection (a) is mailed;

the Title IV-D agency shall issue an order to the bureau of motor vehicles stating that the obligor is delinquent.

(c) An order issued under subsection (b) must require the following:

(1) If the obligor who is the subject of the order holds a driving license or permit on the date the order is issued, that the driving privileges of the obligor be suspended until further order of the Title IV-D agency.

(2) If the obligor who is the subject of the order does not hold a driving license or permit on the date the order is issued, that the bureau of motor vehicles may not issue a driving license or permit to the obligor until the bureau of motor vehicles receives a further order from the Title IV-D agency.

(d) The Title IV-D agency shall provide the:

(1) full name;

(2) date of birth;

(3) verified address; and

(4) Social Security number or driving license number;

of the obligor to the bureau of motor vehicles.

(e) Whenever the Title IV-D agency finds that an obligor who is an applicant (as defined in IC 25-1-1.2-1) or a practitioner (as defined in IC 25-1-1.2-6) is delinquent and the applicant or practitioner has failed to:

(1) pay the obligor's child support arrearage in full;

(2) establish a payment plan with the Title IV-D agency to pay the arrearage, which includes an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5; or

(3) request a hearing under section 33 of this chapter;

the Title IV-D agency shall issue an order to the board regulating the practice of the obligor's profession or occupation stating that the obligor is delinquent.

(f) An order issued under subsection (e) must direct the board or department regulating the obligor's profession or occupation to impose the appropriate sanctions described under IC 25-1-1.2.

(g) Whenever the Title IV-D agency finds that an obligor who is

an attorney or a licensed teacher is delinquent and the attorney or licensed teacher has failed to:

(1) pay the obligor's child support arrearage in full;

(2) establish a payment plan with the Title IV-D agency to pay the arrearage, which includes an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5; or

(3) request a hearing under section 33 of this chapter;

the Title IV-D agency shall notify the supreme court disciplinary commission if the obligor is an attorney, or the department of education if the obligor is a licensed teacher, that the obligor is delinquent.

(h) Whenever the Title IV-D agency finds that an obligor who holds a license issued under IC 4-31-6, IC 4-33, or IC 4-35 has failed to:

(1) pay the obligor's child support arrearage in full;

(2) establish a payment plan with the Title IV-D agency to pay the arrearage, which includes an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5; or

(3) request a hearing under section 33 of this chapter;

the Title IV-D agency shall issue an order to the Indiana horse racing commission if the obligor holds a license issued under IC 4-31-6, or to the Indiana gaming commission if the obligor holds a license issued under IC 4-33 or IC 4-35, stating that the obligor is delinquent and directing the commission to impose the appropriate sanctions described in IC 4-31-6-11, IC 4-33-8.5-3, or IC 4-35-6.7-2.

(i) Whenever the Title IV-D agency finds that an obligor who holds a license issued under IC 27-1-15.6, IC 27-1-15.8, or IC 27-10-3 has failed to:

(1) pay the obligor's child support arrearage in full;

(2) establish a payment plan with the Title IV-D agency to pay the arrearage, which includes an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5; or

(3) request a hearing under section 33 of this chapter;

the Title IV-D agency shall issue an order to the commissioner of the department of insurance stating that the obligor is delinquent and directing the commissioner to impose the appropriate sanctions described in IC 27-1-15.6-29 or IC 27-10-3-20.

(j) Whenever the Title IV-D agency finds that an obligor who holds a license issued by the department of natural resources under IC 14-22-12, IC 14-22-14, IC 14-22-16, IC 14-22-17, IC 14-22-19, IC 14-24-7, or IC 14-31-3 has failed to:

(1) pay the obligor's child support arrearage in full;

(2) establish a payment plan with the Title IV-D agency to pay the arrearage, which includes an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5; or

(3) request a hearing under section 33 of this chapter;

the Title IV-D agency shall issue an order to the director of the department of natural resources stating that the obligor is delinquent and directing the director to suspend or revoke a license issued to the obligor by the department of natural resources as provided in

IC 14-11-3.

(k) If the Title IV-D agency finds that an obligor who holds an employee's permit issued under IC 7.1-3-18-9(a)(3) has failed to:

(1) pay the obligor's child support arrearage in full;

(2) establish a payment plan with the Title IV-D agency to pay the arrearage, which includes an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5; or

(3) request a hearing under section 33 of this chapter;

the Title IV-D agency shall issue an order to the alcohol and tobacco commission stating that the obligor is delinquent and directing the alcohol and tobacco commission to impose the appropriate sanctions under IC 7.1-3-23-44.

(l) A person's most recent address on file with the bureau constitutes a verified address for purposes of this section.

As added by P.L.145-2006, SEC.271. Amended by P.L.103-2007, SEC.48; P.L.131-2009, SEC.34; P.L.80-2010, SEC.50.

IC 31-25-4-33

Objections to order; hearing; issuance of restricted license

Sec. 33. (a) An obligor may contest the Title IV-D agency's determination to issue an order under section 32 of this chapter by making a written application to the Title IV-D agency within twenty (20) days after the date the notice is mailed to the obligor.

(b) The only basis for contesting an order issued under this section is a mistake of fact.

(c) The Title IV-D agency shall hold a hearing, within twenty-five (25) days after written application is made under subsection (a), to review its determination to issue an order under section 32 of this chapter. The Title IV-D agency shall make a determination in writing on the issuance of an order under section 32 of this chapter at the hearing.

(d) At the hearing described in subsection (c), if the obligor whose driving license or permit is suspended under this chapter proves to the satisfaction of the Title IV-D agency that public transportation is unavailable for travel by the obligor:

(1) to and from the obligor's regular place of employment;

(2) in the course of the obligor's regular employment;

(3) to and from the obligor's place of worship; or

(4) to participate in parenting time with the obligor's children consistent with a court order granting parenting time;

the Title IV-D agency may order the bureau of motor vehicles to issue the obligor a restricted driving permit.

(e) If the obligor requests a hearing but fails to appear or if the obligor appears and is found to be delinquent, the Title IV-D agency shall issue an order to the bureau of motor vehicles stating that the obligor is delinquent.

(f) An order issued under subsection (e) must require the following:

(1) If the obligor who is the subject of the order holds a driving license or permit on the date the order is issued, that the

obligor's driving privileges be suspended under further order of the Title IV-D agency.

(2) If the obligor who is the subject of the order does not hold a driving license or permit on the date the order is issued, that the bureau of motor vehicles may not issue a driving license or permit to the obligor until the bureau of motor vehicles receives a further order from the Title IV-D agency.

(g) A restricted driving permit issued by the bureau of motor vehicles under this section must specify that the restricted driving permit is valid only for purposes of driving under the conditions described in subsection (d).

(h) Unless a person whose driving license or permit is suspended under this chapter has been issued a restricted driving permit under this section as a result of a suspension under this chapter, a person who operates a motor vehicle in violation of this section commits a Class A infraction.

As added by P.L.145-2006, SEC.271.

IC 31-25-4-34

Duty of Title IV-D agency after finding of delinquency

Sec. 34. (a) As used in this section, "board" has the meaning set forth in IC 25-1-1.2-2.

(b) If an obligor holds a license issued by a board and requests a hearing under section 33 of this chapter but fails to appear or appears and is found to be delinquent, the Title IV-D agency shall issue an order to the board that issued the obligor's license:

(1) stating that the obligor is delinquent; and

(2) requiring the board to comply with the actions required under IC 25-1-1.2-8(b).

(c) If an obligor holds a license issued under IC 4-31-6, IC 4-33, or IC 4-35 and requests a hearing under section 33 of this chapter but fails to appear or appears and is found to be delinquent, the Title IV-D agency shall issue an order to the:

(1) Indiana horse racing commission, if the obligor holds a license issued under IC 4-31-6; or

(2) Indiana gaming commission, if the obligor holds a license issued under IC 4-33 or IC 4-35;

stating that the obligor is delinquent and requiring the commission to comply with the actions required under IC 4-31-6-11, IC 4-33-8.5-3, or IC 4-35-6.7-2.

(d) If an obligor holds a license issued under IC 27-1-15.6, IC 27-1-15.8, or IC 27-10-3 and requests a hearing under section 33 of this chapter but fails to appear or appears and is found to be delinquent, the Title IV-D agency shall issue an order to the commissioner of the department of insurance:

(1) stating that the obligor is delinquent; and

(2) requiring the commissioner to comply with the actions required under IC 27-1-15.6-29 or IC 27-10-3-20.

(e) If an obligor holds a license issued by the department of natural resources under IC 14-22-12, IC 14-22-14, IC 14-22-16,

IC 14-22-17, IC 14-22-19, IC 14-24-7, or IC 14-31-3 and requests a hearing under section 33 of this chapter but fails to appear, or appears and is found to be delinquent, the Title IV-D agency shall issue an order to the director of the department of natural resources:

(1) stating that the obligor is delinquent; and

(2) requiring the director to suspend or revoke a license issued by the department as provided in IC 14-11-3.

(f) If an obligor:

(1) holds an employee's permit issued under IC 7.1-3-18-9(a)(3); and

(2) requests a hearing under section 33 of this chapter but fails to appear or appears and is found to be delinquent;

the Title IV-D agency shall issue an order to the alcohol and tobacco commission stating that the obligor is delinquent and requiring the commission to impose the appropriate sanctions under IC 7.1-3-23-44.

As added by P.L.145-2006, SEC.271. Amended by P.L.80-2010, SEC.51.

IC 31-25-5

Chapter 5. Cooperation With Department of Child Services Ombudsman

IC 31-25-5-1

"Ombudsman"

Sec. 1. As used in this chapter, "ombudsman" refers to the office of the department of child services ombudsman established within the Indiana department of administration by IC 4-13-19-3. The term includes an employee of the office of the department of child services ombudsman or an individual approved by the office of the department of child services ombudsman to receive, investigate, and resolve complaints that allege the department, by an action or omission, failed to protect the physical or mental health or safety of any child or failed to follow specific laws, rules, or written policies.
As added by P.L.182-2009(ss), SEC.373.

IC 31-25-5-2

Ombudsman access to records and facilities

Sec. 2. The department and the juvenile court with jurisdiction over a child shall provide the ombudsman with:

(1) appropriate access to all records of the department concerning the child, excluding adoption records, but including all records of the department related to vendors and contractors; and

(2) immediate access, without prior notice, to any facility in which the child is placed or is receiving services funded by the department.

As added by P.L.182-2009(ss), SEC.373.

IC 31-26

ARTICLE 26. CHILD SERVICES: PROGRAMS

IC 31-26-1

Chapter 1. Youth Service Bureau

IC 31-26-1-1

"Account"

Sec. 1. As used in this chapter, "account" refers to the youth service bureau grant account.

As added by P.L.145-2006, SEC.272.

IC 31-26-1-2

"Youth service bureau"

Sec. 2. As used in this chapter, "youth service bureau" means an organization that is certified as a youth service bureau by the department under section 3 of this chapter.

As added by P.L.145-2006, SEC.272.

IC 31-26-1-3

Certification requirements

Sec. 3. Any organization may apply to the department for certification as a youth service bureau. The department shall establish criteria for the certification of an organization as a youth service bureau, which must include the following requirements:

(1) The organization must be registered with the secretary of state as a nonprofit corporation or must be an agency of a local governmental unit.

(2) The organization must develop and operate direct and indirect service programs designed to do the following:

(A) Support, represent, and protect the rights of young people.

(B) Prevent adolescent misbehavior and divert young people from the justice system.

(C) Maintain a referral system with other service agencies that might benefit young people.

(D) Inform and educate citizens about the functions and services available through the organization and serve as a link between the needs of youth and the community.

As added by P.L.145-2006, SEC.272.

IC 31-26-1-4

Youth service bureau grant account

Sec. 4. (a) The youth service bureau grant account is established within the state general fund to provide grants to youth service bureaus. The account consists of money:

(1) appropriated by the general assembly;

(2) received in the form of donations; and

(3) from any other source.

(b) The account shall be administered by the department.

(c) The treasurer of state shall invest the money in the account not currently needed to meet the obligations of the account in the same manner as other public funds may be invested.

(d) Money in the account at the end of a state fiscal year does not revert to the state general fund.

As added by P.L.145-2006, SEC.272.

IC 31-26-1-5

Annual grant to each bureau; additional grants

Sec. 5. (a) The department may provide an annual grant to each youth service bureau.

(b) The department may also provide an additional grant to a youth service bureau that is receiving a grant under subsection (a) to permit the youth service bureau to maintain or expand the youth service bureau's programs. An additional grant under this subsection is subject to the requirements of section 7 of this chapter.

As added by P.L.145-2006, SEC.272.

IC 31-26-1-6

Grants to bureaus not receiving annual or additional grants

Sec. 6. The department may provide a grant to a youth service bureau that is not receiving a grant under section 5 of this chapter to permit the youth service bureau to establish, maintain, or expand the youth service bureau's programs. A grant under this section is subject to the requirements of section 7 of this chapter.

As added by P.L.145-2006, SEC.272.

IC 31-26-1-7

Matching grants to bureaus

Sec. 7. A grant under section 5(b) or 6 of this chapter must be matched by an equal amount of money raised by the youth service bureau from sources other than the state.

As added by P.L.145-2006, SEC.272.

IC 31-26-1-8

Rules; application procedures and evaluation criteria; certification and grants

Sec. 8. The department may adopt rules under IC 4-22-2 establishing application procedures and evaluation criteria for organizations applying for certification and grants under this chapter.

As added by P.L.145-2006, SEC.272.

IC 31-26-1-9

Grant recipients' duties

Sec. 9. A youth service bureau that receives a grant under this chapter shall do the following:

(1) Maintain accurate and complete records, reports, statistics, and other information necessary for the conduct of the youth service bureau's programs.

(2) Establish appropriate written policies and procedures to

protect the confidentiality of individual client records.

(3) Submit service and activity reports to the department as required by the department.

As added by P.L.145-2006, SEC.272.

IC 31-26-2
Repealed

(Repealed by P.L.128-2012, SEC.91.)

IC 31-26-3
Repealed

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

IC 31-26-3.5

Chapter 3.5. Child Welfare Programs

IC 31-26-3.5-1

"Child welfare program"

Sec. 1. As used in this chapter, "child welfare program" means a program or an activity that is:

(1) not a component of child services provided to or for the benefit of a particular child or family; and

(2) designed to serve groups or categories of children or families in a community for the purposes described in section 2 of this chapter.

As added by P.L.146-2008, SEC.570.

IC 31-26-3.5-2

Authority to establish and fund program; purposes of program

Sec. 2. A child welfare program may be established and funded by the department for any of the following purposes:

(1) Protecting and promoting the welfare of children in a community who are, or are likely to be, at risk of becoming homeless, neglected, or abused due to lack of adequate or appropriate parental support or supervision, in order to reduce the likelihood that the children will become wards of a juvenile court or the department.

(2) Preventing, remedying, or assisting in the solution of problems that may result in the neglect, abuse, exploitation, or delinquency of children.

(3) Preventing unnecessary separation of children from their families by identifying family problems, assisting in the resolution of family problems, and preventing the breakup of families whenever prevention of child removal is possible and desirable.

(4) Providing services targeted to the assistance of children who are developmentally or physically disabled and their families, for the purposes of prevention of potential abuse, neglect, or abandonment of those children, and enabling the children to receive adequate family support and preparation to become self-supporting to the extent feasible.

(5) Providing family preservation services or family support services (both as defined in 42 U.S.C. 629a) for families and children who are not currently receiving individually designed services provided or funded by the department through an open juvenile court child in need of services or delinquency case.

As added by P.L.146-2008, SEC.570.

IC 31-26-3.5-3

Application to establish, continue, or modify program

Sec. 3. (a) An application to establish a new child welfare program, or to continue or modify an existing child welfare program, may be submitted by a court, county executive, private nonprofit

agency or organization, or an interested person based on guidelines and instructions issued by the department. Except as provided in subsection (b), the application shall be transmitted to the regional services council or councils for the county, region, or geographic area of Indiana that the applicant proposes to serve. Each regional services council must review and submit its recommendations to the director in conformity with procedures established by the department.

(b) An application to establish, continue, or modify a program that will operate on a statewide basis shall be submitted directly to the director of the department for review and evaluation.

As added by P.L.146-2008, SEC.570.

IC 31-26-3.5-4

Approval of program

Sec. 4. A child welfare program must be approved by the director of the department or the director's designee. The director's approval shall specify the period for which operation of the program is approved and the procedure for submission of any request for continuation, extension, or modification of the approved program. The department may not pay for the costs of any programs that have not been approved by the director.

As added by P.L.146-2008, SEC.570.

IC 31-26-3.5-5

Policies and procedures for review and evaluation of programs

Sec. 5. The department shall establish policies and procedures for periodic review and evaluation of approved child welfare programs, including evaluation of the effectiveness and results of the program activities, as part of the consideration of any application to continue or modify the program.

As added by P.L.146-2008, SEC.570.

IC 31-26-3.5-6

Child welfare program account established; sources of funds in account

Sec. 6. (a) A child welfare program account is established in the state general fund to receive money for establishment, operation, or support of child welfare programs. Receipts credited to the child welfare program account may be derived from the following sources:

(1) Any appropriation made by the general assembly that is specifically designated for child welfare programs.

(2) Any part of the appropriation to the department that is set aside and allocated by the department for child welfare programs, at the discretion of the director.

(3) Any part of federal grant funds received by the department through Title IV-B Parts 1 and 2 of the Social Security Act (42 U.S.C. 620 et seq.) that is allocated by the department for child welfare programs under this chapter at the discretion of the director, subject to the terms and conditions of the grant.

(4) Any gifts received by the department from individuals or

nongovernmental organizations, for purposes of child welfare programs. The department may receive and administer any gifts earmarked for specifically designated child welfare programs, in accordance with the terms of the gift.

(b) Any appropriation made by the general assembly for the child welfare program account remains in the child welfare program account until expended and does not revert to the state general fund at the expiration of the state fiscal year for which the appropriation was made.

As added by P.L.146-2008, SEC.570.

IC 31-26-3.5-7

Rules

Sec. 7. The department may adopt rules under IC 4-22-2 that are necessary or appropriate to implement this chapter.

As added by P.L.146-2008, SEC.570.

IC 31-26-4

Chapter 4. Indiana Kids First Trust

IC 31-26-4-1

Purpose

Sec. 1. (a) The purpose of the Indiana kids first trust program and this chapter is to recognize that:

(1) the children of the state are its single greatest resource;

(2) children require the utmost protection to guard their future and the future of the state;

(3) it is in the public interest to protect children from abuse and neglect; and

(4) it is in the public interest to reduce infant mortality.

(b) The Indiana kids first trust program shall provide funds for community programs that prevent child abuse and neglect.

(c) The Indiana kids first trust program shall provide funds for community programs that reduce infant mortality from the infant mortality account established by section 14 of this chapter.

As added by P.L.145-2006, SEC.272.

IC 31-26-4-2

"Board"

Sec. 2. As used in this chapter, "board" refers to the Indiana kids first trust fund board established by section 5 of this chapter.

As added by P.L.145-2006, SEC.272.

IC 31-26-4-2.3

Treatment of references to Indiana children's trust fund board; transfer of property to board

Sec. 2.3. (a) After June 30, 2003, any reference in a statute or rule referring to the Indiana children's trust fund board is considered a reference to the board.

(b) On July 1, 2003, the board becomes the owner of all the personal property and assets and assumes the obligations and liabilities of the Indiana children's trust fund board, as it existed before July 1, 2003.

As added by P.L.220-2011, SEC.506.

IC 31-26-4-3

"Fund"

Sec. 3. As used in this chapter, "fund" refers to the Indiana kids first trust fund established by section 12 of this chapter.

As added by P.L.145-2006, SEC.272.

IC 31-26-4-4

"Project"

Sec. 4. As used in this chapter, "project" means an undertaking:

(1) that furthers the purposes of this chapter; and

(2) for which an expenditure from the fund may be made.

As added by P.L.145-2006, SEC.272.

IC 31-26-4-5
Indiana kids first trust fund board

Sec. 5. (a) The Indiana kids first trust fund board is established.

(b) The purpose of the board is to determine whether proposed projects under this chapter should be approved and to perform other duties given to the board by this chapter. The board shall approve projects and recommend to the department that the projects receive funds under sections 12 and 14 of this chapter.

(c) The board shall, before January 1 of each year, prepare a budget for expenditures from the fund for the following state fiscal year. The budget must contain priorities for expenditures from the fund to accomplish the projects that have been approved under this chapter. The budget shall be submitted to the department and the budget committee.

(d) The board may employ staff necessary to carry out the duties of the board.

As added by P.L.145-2006, SEC.272.

IC 31-26-4-6
Members of board

Sec. 6. The board consists of the following ten (10) members:

(1) Two (2) individuals who are not members of the general assembly, appointed by the president pro tempore of the senate with advice from the minority leader of the senate.

(2) Two (2) individuals who are not members of the general assembly, appointed by the speaker of the house of representatives with advice from the minority leader of the house of representatives.

(3) The director of the department or the director's designee.

(4) Four (4) individuals appointed by the governor as follows:

(A) One (1) individual who represents the general public.

(B) Two (2) individuals who represent child advocacy organizations.

(C) One (1) individual who represents the medical community.

(5) The commissioner of the state department of health or the commissioner's designee. An individual designated by the commissioner under this subdivision must have knowledge of or experience in issues relating to:

(A) the prevention of child abuse and neglect; and

(B) the reduction of infant mortality.

As added by P.L.145-2006, SEC.272.

IC 31-26-4-7
Chairperson and vice chairperson of board

Sec. 7. (a) The members shall annually choose a chairperson and vice chairperson from among the members of the board under this section.

(b) The director of the department or the director's designee may not serve as chairperson or vice chairperson.

(c) If the member chosen as chairperson was appointed as a member by the president pro tempore of the senate or the speaker of the house of representatives, the vice chairperson must be chosen from among the members appointed by the governor. If the member chosen as chairperson was appointed as a member by the governor, the vice chairperson must be chosen from among the members appointed by the president pro tempore of the senate or the speaker of the house of representatives.
As added by P.L.145-2006, SEC.272.

IC 31-26-4-8
Meetings; quorum; voting of board

Sec. 8. (a) The board shall meet at least quarterly and at the call of the chair.

(b) Six (6) voting members of the board constitute a quorum. The board may take action only in the presence of a quorum.

(c) The affirmative vote of a majority of the members of the board is necessary for the board to take any action.
As added by P.L.145-2006, SEC.272.

IC 31-26-4-9
Terms of board members

Sec. 9. (a) The term of a board member begins on the later of the following:

(1) The day the term of the member whom the individual is appointed to succeed expires.

(2) The day the individual is appointed.

(b) The term of a member expires July 1 of the second year after the member is appointed. However, a member serves at the pleasure of the appointing authority.

(c) The appointing authority may reappoint a member for a new term.

(d) The appointing authority shall appoint an individual to fill a vacancy among the members.
As added by P.L.145-2006, SEC.272.

IC 31-26-4-10
Compensation of board members

Sec. 10. (a) Each member of the board who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is also entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(b) Each member of the board who is a state employee is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved

by the budget agency.
As added by P.L.145-2006, SEC.272.

IC 31-26-4-11
Strategic plan; plan proposal and fund request method

Sec. 11. The board shall adopt and make available to the public:

(1) a strategic plan to implement the purposes of this chapter; and

(2) a method for proposing projects and requesting funds from the Indiana kids first trust fund.

As added by P.L.145-2006, SEC.272.

IC 31-26-4-12
Indiana kids first trust fund

Sec. 12. (a) The Indiana kids first trust fund is established to carry out the purposes of this chapter.

(b) The fund consists of the following:

(1) Appropriations made by the general assembly.

(2) Interest as provided in subsection (e).

(3) Fees from kids first trust license plates issued under IC 9-18-30.

(4) Money donated to the fund.

(5) Money transferred to the fund from other funds.

(c) The treasurer of state shall administer the fund.

(d) The expenses of administering the fund and this chapter shall be paid from the fund.

(e) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public trust funds are invested. Interest that accrues from these investments shall be deposited in the fund.

(f) An appropriation made by the general assembly to the fund shall be allotted and allocated at the beginning of the fiscal period for which the appropriation was made.

(g) Money in the fund at the end of a state fiscal year does not revert to the state general fund or any other fund.

(h) Subject to this chapter, there is annually appropriated to the department all money in the fund for the purposes of this chapter. However, the department may not request the allotment of money from the appropriation for a project that has not been approved and recommended by the board.

As added by P.L.145-2006, SEC.272.

IC 31-26-4-13
Use of fund money

Sec. 13. (a) Except as provided in subsection (b), money in the fund may be used for projects that propose to accomplish the following:

(1) The support, development, and operation in local communities of programs that prevent child abuse and neglect.

(2) The development of innovative local programs of education

and training concerning child abuse and neglect.

(3) The promotion of public awareness of child abuse and neglect.

(4) Statewide efforts to prevent child abuse and neglect.

(b) Money in the infant mortality account established within the fund under section 14 of this chapter may be used only for projects that:

(1) support, develop, and operate programs that reduce infant mortality in local communities;

(2) develop innovative local programs of education and training concerning infant mortality;

(3) promote public awareness of infant mortality; or

(4) promote statewide efforts to reduce infant mortality.

(c) Money in the fund may not be granted to a state or local unit of government.

(d) The cost of any salary and benefits paid to staff employed under this chapter:

(1) shall be paid from money in the fund; and

(2) may not exceed forty-five thousand dollars ($45,000) during any fiscal year.

As added by P.L.145-2006, SEC.272.

IC 31-26-4-14

Infant mortality account

Sec. 14. (a) The infant mortality account is established within the fund for the purpose of providing money for education and programs approved by the board under section 5(b) of this chapter to reduce infant mortality in Indiana. The account shall be administered by the treasurer of state.

(b) Expenses of administering the account shall be paid from money in the account. The account consists of the following:

(1) Appropriations to the account.

(2) Money donated to the account.

(c) The treasurer of state shall invest the money in the account not currently needed to meet the obligations of the account in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the account.

(d) Money in the account at the end of a state fiscal year does not revert to the state general fund.

As added by P.L.145-2006, SEC.272. Amended by P.L.156-2011, SEC.40.

IC 31-26-4-15

Annual report

Sec. 15. Before October 1 of each year, the board shall prepare a report concerning the program established by this chapter for the public and the general assembly. A report prepared under this section for the general assembly must be in an electronic format under IC 5-14-6.

As added by P.L.145-2006, SEC.272.

IC 31-26-4-16
Adoption of rules

Sec. 16. The department may adopt rules under IC 4-22-2 to implement this chapter.

As added by P.L.145-2006, SEC.272.

IC 31-26-5

Chapter 5. Family Preservation Services

IC 31-26-5-1

"Child at imminent risk of placement"

Sec. 1. As used in this chapter, "child at imminent risk of placement" means a child less than eighteen (18) years of age who reasonably may be expected to face in the near future out-of-home placement under IC 31-27 through IC 31-28 and IC 31-30 through IC 31-40 as a result of at least one (1) of the following:

(1) Dependency, abuse, or neglect.

(2) Emotional disturbance.

(3) Family conflict so extensive that reasonable control of the child is not exercised.

(4) Delinquency adjudication.

As added by P.L.145-2006, SEC.272.

IC 31-26-5-2

Department contracting to provide family preservation services

Sec. 2. The department may contract to provide or provide, when appropriate, within the limits of available funding, family preservation services to families with a child at imminent risk of placement.

As added by P.L.145-2006, SEC.272.

IC 31-26-5-3

Duties of family preservation services

Sec. 3. (a) Family preservation services may provide:

(1) comprehensive, coordinated, flexible, and accessible services;

(2) intervention as early as possible with emphasis on establishing a safe and nurturing environment;

(3) services to families who have members placed in care settings outside the nuclear family; and

(4) planning options for temporary placement outside the family if it would endanger the child to remain in the home.

(b) Unless authorized by a juvenile court, family preservation services may not include a temporary out-of-home placement if a person who is currently residing in the location designated as the out-of-home placement has committed an act resulting in a substantiated report of child abuse or neglect or has a juvenile adjudication or a conviction for a felony listed in IC 31-27-4-13.

(c) Before placing a child at imminent risk of placement in a temporary out-of-home placement, the department shall conduct a criminal history check (as defined in IC 31-9-2-22.5) for each person described in subsection (b). However, the department is not required to conduct a criminal history check under this section if the temporary out-of-home placement is made to an entity or facility that is not a residence (as defined in IC 3-5-2-42.5) or that is licensed by the state.

As added by P.L.145-2006, SEC.272.

IC 31-26-5-4
Family preservation services; delivery of services

Sec. 4. Family preservation services must be delivered:

(1) only to families and in situations where the services may reasonably be expected to avoid out-of-home placement of the child; and

(2) to afford effective protection of the child, the family, and the community.

As added by P.L.145-2006, SEC.272.

IC 31-26-5-5
Family preservation services; required services; discretionary services

Sec. 5. (a) Family preservation services must include the following:

(1) A twenty-four (24) hour crisis intervention service.

(2) Risk assessment, case management, and monitoring.

(3) Intensive in-home skill building and counseling.

(4) After-care linkage.

(b) The following services may be available as needed to families receiving family preservation services:

(1) Emergency respite care.

(2) Pre-adoption and post-adoption services.

As added by P.L.145-2006, SEC.272.

IC 31-26-5-6
Family preservation services; maximum caseload per caseworker

Sec. 6. A caseworker who provides family preservation services may retain a maximum caseload of twelve (12) families.

As added by P.L.145-2006, SEC.272.

IC 31-26-6

Chapter 6. Regional Service Strategic Plans

IC 31-26-6-1

"Plan"

Sec. 1. As used in this chapter, "plan" includes a regional services strategic plan to achieve the purposes described in section 5 of this chapter and any implementation strategy, revision, addition, or update of the plan, as described in section 12(a) of this chapter.

As added by P.L.146-2008, SEC.571.

IC 31-26-6-2

"Regional services council"

Sec. 2. As used in this chapter, "regional services council" means a council appointed as provided in section 7 of this chapter.

As added by P.L.146-2008, SEC.571.

IC 31-26-6-3

"Service region"

Sec. 3. As used in this chapter, "service region" means an area of Indiana consisting of one (1) or more counties.

As added by P.L.146-2008, SEC.571.

IC 31-26-6-4

County participation in regional services council

Sec. 4. (a) Each county shall participate in a regional services council established under this chapter for the service region in which the county is located.

(b) The department shall determine the county or counties that comprise each service region. A county may not be divided when establishing a service region.

As added by P.L.146-2008, SEC.571.

IC 31-26-6-5

Biennial regional services strategic plan required

Sec. 5. Each regional services council shall develop a biennial regional services strategic plan that is tailored to provide services targeted to the individual needs of children who:

(1) have been either:

(A) adjudicated as, or alleged in a proceeding initiated under IC 31-34 or IC 31-37 to be, children in need of services or delinquent children; or

(B) identified by the department, based on information received from:

(i) a school;

(ii) a social service agency;

(iii) a court;

(iv) a probation department;

(v) the child's parent or guardian; or

(vi) an interested person in the community having

knowledge of the child's environment and family circumstances;

and after an informal investigation, as substantially at risk of becoming children in need of services or delinquent children; and

(2) have been referred to the department by, or with the consent of, the child's parent, guardian, or custodian for services to be provided through the plan based on an individual case plan for the child.

As added by P.L.146-2008, SEC.571.

IC 31-26-6-6

Evaluation of needs; determination of appropriate delivery mechanisms; recommendation regarding allocation and distribution of funds

Sec. 6. (a) Each regional services council shall, according to guidelines and policies established by the department, include in its plan an evaluation of local child welfare service needs and a determination of appropriate delivery mechanisms. The policies shall provide an opportunity for local services providers to be represented in the evaluation of local child welfare service needs. In addition, the regional services council shall take public testimony regarding local service needs and system changes.

(b) The council shall also recommend in the plan, or any revision, addition, or update relating to implementation of a plan under section 12(a) of this chapter, the allocation and distribution among service providers of funds that:

(1) the department allocates to the service region; and

(2) are used to pay for the expenses of child welfare programs and child services administered by the department within the region.

As added by P.L.146-2008, SEC.571.

IC 31-26-6-7

Members of regional services council

Sec. 7. (a) If the service region consists of at least three (3) counties, the regional services council is composed of the following members appointed from the service region:

(1) The regional manager, who must be an employee of the department.

(2) Three (3) members who are juvenile court judges or their designees.

(3) Three (3) local office directors.

(4) Two (2) family case manager supervisors.

(5) Two (2) family case managers.

(6) Two (2) licensed foster parents.

(7) One (1) guardian ad litem or court appointed special advocate.

(8) One (1) member who is a prosecuting attorney or the prosecuting attorney's designee.

(9) One (1) individual who:

(A) is at least sixteen (16) and less than twenty-five (25) years of age;

(B) is a resident of the service region;

(C) has received or is receiving services through funds provided, directly or indirectly, through the department; and

(D) will serve in a nonvoting capacity.

(b) If the service region consists of one (1) or two (2) counties, the regional services council must include at least the following members from the service region:

(1) Three (3) employees of the department, including the regional manager.

(2) One (1) juvenile court judge or judicial hearing officer.

(3) Two (2) members who are designees of a juvenile court judge.

(4) Two (2) family case manager supervisors.

(5) Two (2) family case managers.

(6) One (1) licensed foster parent.

(7) One (1) person from each category described in subsection (a)(7), (a)(8), and (a)(9).

(c) The director shall appoint the members of the regional services council with the exception of judges or judicial hearing officers and prosecuting attorneys or their respective designees.

(d) The members of the regional services council described in subsections (a)(2), (b)(2), and (b)(3) shall be selected by the juvenile court judge or judges in the service region.

(e) The member of the regional services council described in subsection (a)(8) shall be selected by the prosecuting attorneys in the counties comprising the service region.

(f) Each member of the regional services council shall serve at the pleasure of the member's appointing authority.

As added by P.L.146-2008, SEC.571.

IC 31-26-6-8

Organizational meeting; chairperson of regional services council

Sec. 8. (a) The regional manager shall convene an organizational meeting of the members of a regional services council appointed under section 7 of this chapter.

(b) The regional manager shall serve as the chairperson of the council. The council shall select one (1) of its members as vice chairperson.

As added by P.L.146-2008, SEC.571.

IC 31-26-6-9

Review and consideration of certain programs

Sec. 9. In preparing the plan under section 5 of this chapter, a regional services council shall review and consider existing publicly and privately funded programs that are available or that could be made available in the regional services council's service region to provide supportive services to or for the benefit of children described

in section 5 of this chapter without removing the child from the family home, including programs funded through the following:

(1) Title IV-B of the Social Security Act (42 U.S.C. 620 et seq.).

(2) Title IV-E of the Social Security Act (42 U.S.C. 670 et seq.).

(3) Title XX of the Social Security Act (42 U.S.C. 1397 et seq.).

(4) The Child Abuse Prevention and Treatment Act (42 U.S.C. 5106 et seq.).

(5) Special education programs under IC 20-35-6-2.

(6) All programs designed to prevent child abuse, neglect, or delinquency, or to enhance child welfare and family preservation administered by, or through funding provided by, the department, prosecuting attorneys, or juvenile courts, including programs funded under IC 31-26-3.5 and IC 31-40.

As added by P.L.146-2008, SEC.571. Amended by P.L.128-2012, SEC.92.

IC 31-26-6-10

Family preservation services

Sec. 10. A regional services council may include in its plan a program for provision of family preservation services that:

(1) is or will be in effect in the regional services council's service region;

(2) includes services for a child less than eighteen (18) years of age who reasonably may be expected to be considered for out-of-home placement under IC 31-34 or IC 31-37 as a result of:

(A) abuse or neglect;

(B) emotional disturbance; or

(C) delinquency adjudication; and

(3) addresses all the objectives of family preservation services.

As added by P.L.146-2008, SEC.571.

IC 31-26-6-11

Transmission of plan by regional services council; action on plan by director of department

Sec. 11. (a) Each regional services council shall transmit to the director each plan it develops and approves. The council shall transmit its biennial plan described in section 5 of this chapter to the director not later than February 2 of each even-numbered year.

(b) Not later than sixty (60) days after receiving the plan, the director of the department or the director's designee shall do one (1) of the following:

(1) Approve the plan as submitted by the council.

(2) Approve the plan with amendments, modifications, or revisions.

(3) Return the plan to the council with directions concerning:

(A) subjects for further study and reconsideration; and

(B) resubmission of a revised plan.

As added by P.L.146-2008, SEC.571.

IC 31-26-6-12
Quarterly meetings; additional meetings; quorum; designation of representative or proxy; application of public meetings law

Sec. 12. (a) A regional services council shall meet at least quarterly to do the following:

(1) Develop, review, or revise a strategy for implementation of an approved plan that identifies:

(A) the manner in which prevention and early intervention services will be provided or improved;

(B) how local collaboration will improve children's services; and

(C) how different funds can be used to serve children and families more effectively.

(2) Reorganize as needed and select its vice chairperson for the ensuing year.

(3) Review the implementation of the plan and prepare revisions, additions, or updates of the plan that the regional services council considers necessary or appropriate to improve the quality and efficiency of early intervention child welfare services provided in accordance with the plan.

(b) The chairperson or vice chairperson of a regional services council may convene any additional meetings of the regional services council that are, in the chairperson's or vice chairperson's opinion, necessary or appropriate.

(c) A majority of the voting members of the regional services council appointed under section 7 of this chapter constitutes a quorum for the transaction of official business that includes taking final action (as defined in IC 5-14-1.5-2(g)). The regional services council may hold a meeting in the absence of a quorum to discuss any items of public business related to its responsibilities and functions as described in this chapter, without taking final action.

(d) A judicial officer or prosecuting attorney who is a member of the regional services council under section 7 of this chapter may designate in writing a person as the member's representative or proxy to attend any meeting of the council specified in the designation. Any designee under this subsection shall be a voting member of the council and be included for purposes of a quorum under subsection (c).

(e) Any department employee who is a member of the regional services council under section 7 of this chapter may designate in writing a person as the member's representative or proxy to attend any meeting of the council specified in the designation. Any designee under this subsection shall be a voting member of the council and be included for purposes of a quorum under subsection (c).

(f) All meetings of a regional services council under this chapter are subject to applicable provisions of IC 5-14-1.5.

As added by P.L.146-2008, SEC.571.

IC 31-26-6-13
Repealed

(Repealed by P.L.134-2012, SEC.33.)

IC 31-26-6-14
Transmission of plan, annual report, and other documents

Sec. 14. (a) A regional services council or the regional manager shall transmit copies of the plan, each annual report, each revised plan, and any other report or document described by rule adopted under section 16 of this chapter, to the following:

(1) The director.
(2) Each department office in the service region.
(3) Each juvenile court in the service region.

(b) A regional services council shall provide to the department a copy of each plan, annual report, or revised plan transmitted under subsection (a) to be posted to the department's Internet web site.
As added by P.L.146-2008, SEC.571.

IC 31-26-6-15
Publicizing of plan

Sec. 15. A regional services council shall publicize to residents of each county in the service region the existence and availability of the plan, including information concerning access to the plan on the department web site.
As added by P.L.146-2008, SEC.571.

IC 31-26-6-16
Rules

Sec. 16. The department may adopt rules under IC 4-22-2 to administer this chapter.
As added by P.L.146-2008, SEC.571.

IC 31-27

ARTICLE 27. CHILD SERVICES: REGULATION OF RESIDENTIAL CHILD CARE

IC 31-27-1

Chapter 1. Applicability

IC 31-27-1-1

Application

Sec. 1. This article does not apply to the following:

(1) A child caring institution, foster family home, group home, or child placing agency licensed or operated by any of the following:

(A) Programs for children in kindergarten through grade 12 that are operated under the authority of the department of education or that are operated with the assistance of the department of education.

(B) The division of mental health and addiction.

(C) The state department of health.

(D) The department of correction.

(2) A person who has received a child for adoption.

(3) A county jail or detention center.

As added by P.L.145-2006, SEC.273.

IC 31-27-1-2

Legalization of issuance of certain licenses

Sec. 2. Any license issued to a foster home, day care home, day care center, child caring institution, or children's home that:

(1) was issued before July 1, 1988, without the approval of the state board of health; and

(2) otherwise was issued in compliance with IC 12-3-2 (before its repeal, later codified at IC 12-17-4, before its repeal), as effective before July 1, 1988;

is legalized and validated.

As added by P.L.220-2011, SEC.507.

IC 31-27-2

Chapter 2. General Powers and Duties of the Department

IC 31-27-2-1

Duties of department of child services

Sec. 1. The department shall perform the following duties:

(1) Administer the licensing and monitoring of child caring institutions, foster family homes, group homes, and child placing agencies in accordance with this article.

(2) Ensure that a criminal history check of an applicant is conducted under IC 31-9-2-22.5 before issuing a license.

(3) Provide for the issuance, denial, and revocation of licenses.

(4) Cooperate with governing bodies of child caring institutions, foster family homes, group homes, and child placing agencies and their staffs to improve standards of child care.

(5) Prepare at least biannually a directory of licensees, except for foster family homes, with a description of the program capacity and type of children served that will be distributed to the legislature, licensees, and other interested parties as a public document.

(6) Deposit all license application fees collected under section 2 of this chapter in the department of child services child care fund established by IC 31-25-2-16.

As added by P.L.145-2006, SEC.273. Amended by P.L.146-2006, SEC.26; P.L.1-2007, SEC.201; P.L.128-2012, SEC.93.

IC 31-27-2-2

Powers of department

Sec. 2. The department may do the following:

(1) Prescribe forms for reports, statements, notices, and other documents required by this article or by the rules adopted under this article.

(2) Increase public awareness of this article and the rules adopted under this article by preparing and publishing manuals and guides explaining this article and the rules adopted under this article.

(3) Facilitate compliance with and enforcement of this article through the publication of materials under subdivision (2).

(4) Prepare reports and studies to advance the purpose of this article.

(5) Seek the advice and recommendations of state agencies whose information and knowledge would be of assistance in writing, revising, or monitoring rules developed under this article. These agencies, including the office of the attorney general, state department of health, division of mental health and addiction, division of family resources, the state police department, and fire prevention and building safety commission, shall upon request supply necessary information to the department.

(6) Make the directory of licensees available to the public for a

charge not to exceed the cost of reproducing the directory.

(7) Charge a reasonable processing fee for each license application and renewal as follows:

(A) For a child caring institution or group home license, a fee not to exceed three dollars ($3) for each licensed bed based on total licensed bed capacity not to exceed a maximum fee of one hundred fifty dollars ($150).

(B) For a child placing agency license, a fee not to exceed fifty dollars ($50).

(8) Exercise any other regulatory and administrative powers necessary to carry out the functions of the department.

As added by P.L.145-2006, SEC.273. Amended by P.L.128-2012, SEC.94.

IC 31-27-2-3

Foster family home application fee prohibition

Sec. 3. The department may not charge an application fee for a foster family home.

As added by P.L.145-2006, SEC.273.

IC 31-27-2-4

Rules; establishment of standards

Sec. 4. (a) The department shall adopt rules under IC 4-22-2, including emergency rules under IC 4-22-2-37.1, concerning the licensing and inspection of:

(1) child caring institutions, foster family homes, group homes, and child placing agencies after consultation with the following:

(A) State department of health.

(B) Fire prevention and building safety commission; and

(2) child caring institutions and group homes that are licensed for infants and toddlers after consultation with the division of family resources.

(b) The rules adopted under subsection (a) shall be applied by the department and state fire marshal in the licensing and inspection of applicants for a license and licensees under this article.

(c) The rules adopted under IC 4-22-2 must establish minimum standards for the care and treatment of children in a secure private facility.

(d) The rules described in subsection (c) must include standards governing the following:

(1) Admission criteria.

(2) General physical and environmental conditions.

(3) Services and programs to be provided to confined children.

(4) Procedures for ongoing monitoring and discharge planning.

(5) Procedures for the care and control of confined persons that are necessary to ensure the health, safety, and treatment of confined children.

(e) The department shall license a facility as a secure private facility if the facility:

(1) meets the minimum standards required under subsection (c);

(2) provides a continuum of care and services; and
(3) is licensed under IC 31-27-3.

(f) A waiver of the rules may not be granted for treatment and reporting requirements.

As added by P.L.145-2006, SEC.273. Amended by P.L.131-2009, SEC.35; P.L.162-2011, SEC.22; P.L.128-2012, SEC.95.

IC 31-27-2-5
Monitoring of licensed entities

Sec. 5. (a) The department shall monitor the entities licensed under this article for continued compliance with this article and the rules adopted by the department, including conducting the following:

(1) Onsite inspections, record reading, observation, and interviewing.
(2) An onsite licensing study at least one (1) time a year in announced or unannounced visits.

(b) The department is entitled to access to the premises, personnel, children in care, and records, including case records, foster care records, personnel files, corporate and fiscal records, and board minutes of the licensee. Access shall also be provided to personnel from other state agencies or other persons who provide inspections at the request of the department.

As added by P.L.145-2006, SEC.273.

IC 31-27-2-6
Investigation of complaints

Sec. 6. The department shall investigate complaints to determine possible noncompliance with the rules adopted by the department. A licensee is entitled to add comments concerning a complaint to the licensing file. The department shall consider all formal complaints against a licensee before a license may be renewed.

As added by P.L.145-2006, SEC.273.

IC 31-27-2-7
Child caring institutions and group homes operated by churches and religious ministries

Sec. 7. (a) Except as provided in subsections (b) and (c), the department shall exempt from licensure a child caring institution and a group home operated by a church or religious ministry that is a religious organization exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code (as defined in IC 6-3-1-11) and that does not:

(1) accept for care:
(A) a child who is a delinquent child under IC 31-37-1-1 or IC 31-37-2-1; or
(B) a child who is a child in need of services under IC 31-34-1-1 through IC 31-34-1-9; or
(2) operate a residential facility that provides child care on a twenty-four (24) hour basis for profit.

(b) The department shall adopt rules under IC 4-22-2 to govern the

inspection of a child caring institution and a group home operated by a church or religious ministry with regard to sanitation.

(c) The fire prevention and building safety commission shall adopt rules under IC 4-22-2 to govern the inspection of a child caring institution and a group home operated by a church or religious ministry under this section. The rules must provide standards for fire alarms and fire drills.

(d) A child caring institution and a group home operated by a church or religious ministry under this section shall comply with the rules established by the department and the fire prevention and building safety commission under this section.

As added by P.L.145-2006, SEC.273.

IC 31-27-2-8

Granting of variances and waivers

Sec. 8. (a) The department may grant a variance or waiver of a rule governing child caring institutions, foster family homes, group homes, or child placing agencies. A variance or waiver granted under this section must promote statewide practices and must protect the rights of persons affected by this article.

(b) The department may grant a variance to a rule if an applicant for a license or a licensee under this article does the following:

(1) Submits to the department a written request for the variance in the form and manner specified by the department.

(2) Documents that compliance with an alternative method of compliance approved by the department will not be adverse to the health, safety, or welfare of a child receiving services from the applicant for the variance, as determined by the department.

(c) A variance granted under subsection (b) must be conditioned upon compliance with the alternative method approved by the department. Noncompliance constitutes the violation of a rule of the department and may be the basis for revoking the variance.

(d) The department may grant a waiver of a rule if an applicant for a license or a licensee under this article does the following:

(1) Submits to the department a written request for the waiver in the form and manner specified by the department.

(2) Documents that compliance with the rule specified in the application for the waiver will create an undue hardship on the applicant for the waiver, as determined by the department.

(3) Documents that the applicant for the waiver will be in substantial compliance with the rules adopted by the department after the waiver is granted, as determined by the department.

(4) Documents that noncompliance with the rule specified in the application for a waiver will not be adverse to the health, safety, or welfare of a child receiving services from the applicant for the waiver, as determined by the department.

(e) Except for a variance or waiver of a rule governing foster family homes, a variance or waiver of a rule under this section that conflicts with a building rule or fire safety rule adopted by the fire prevention and building safety commission is not effective until the

variance or waiver is approved by the fire prevention and building safety commission.
As added by P.L.145-2006, SEC.273.

IC 31-27-2-9
Expiration of variances and waivers

Sec. 9. A waiver or variance granted under section 8 of this chapter and a waiver or variance renewed under section 10 of this chapter expires on the earliest of the following:

(1) The date when the license affected by the waiver or variance expires.

(2) The date set by the department for the expiration of the waiver or variance.

(3) The occurrence of the event set by the department for the expiration of the waiver or variance.

(4) Four (4) years after the date that the waiver or variance becomes effective.

As added by P.L.145-2006, SEC.273.

IC 31-27-2-10
Renewal of variances and waivers

Sec. 10. (a) If the department determines that a waiver or variance expiring under section 9 of this chapter will continue to serve the public interest, the department may do the following:

(1) Renew the waiver or variance without modifications.

(2) Renew and modify the waiver or variance as needed to promote statewide practices and to protect the rights of persons affected by this chapter.

(b) Before taking an action under subsection (a), the department may require a licensee under this article to do the following:

(1) Apply for the renewal of a waiver or variance on the form specified by the department.

(2) Provide the information required by the department.

(c) Except for a variance or waiver of a rule governing foster family homes, before taking an action under subsection (a), the department must obtain the approval of the fire prevention and building safety commission for the action if either of the following occurs:

(1) The fire prevention and building safety commission substantially changes a building rule or fire safety rule affected by the waiver or variance after the date the commission last approved the waiver or variance.

(2) The department substantially modifies any part of a waiver or variance that conflicts with a building rule or fire safety rule adopted by the fire prevention and building safety commission.

As added by P.L.145-2006, SEC.273.

IC 31-27-2-11
Revocation of variances and waivers

Sec. 11. (a) If a licensee under this article violates a condition of

a waiver or variance under this chapter, the department may issue an order revoking the waiver or variance before the waiver or variance expires under section 9 of this chapter.

(b) If a waiver or variance is revoked under subsection (a), the licensee is entitled to notice and an opportunity for a hearing as provided under this article.

As added by P.L.145-2006, SEC.273.

IC 31-27-3

Chapter 3. Regulation of Child Caring Institutions

IC 31-27-3-1

License required for operation

Sec. 1. (a) A person may not operate a child caring institution without a license issued under this article.

(b) The state or a political subdivision of the state may not operate a child caring institution or receive children for placement in a child caring institution without a license issued under this article.

(c) A person may not operate a child caring institution if:

(1) the number of children maintained on the premises at any one (1) time is greater than the number authorized by the license; or

(2) the children are maintained in a building or place not designated by the license.

As added by P.L.145-2006, SEC.273.

IC 31-27-3-2

Conditions for issuance of license

Sec. 2. (a) A license may be issued only if the child caring institution is in substantial compliance with food, health, safety, and sanitation standards under rules adopted by the department under IC 31-27-2-4 or in accordance with a variance or waiver approved by the department under IC 31-27-2-8.

(b) A license may be issued only if the child caring institution is in compliance with the fire and life safety rules as determined by the state fire marshal under rules adopted by the department under IC 31-27-2-4 or in accordance with a variance or waiver approved by the department under IC 31-27-2-8.

(c) The department may issue a waiver or variance regarding a determination by the state fire marshal under subsection (b).

(d) Except as provided in subsection (e), the department may not issue a license under this chapter unless the child caring institution is staffed by, when children are being cared for, at least one (1) child care provider who is annually certified in a program on pediatric cardiopulmonary resuscitation and pediatric airway obstruction under the American Heart Association's Basic Life Support Course D or any other comparable course approved by the department.

(e) The requirement under subsection (d) does not apply to a child caring institution that only serves children who are at least thirteen (13) years of age and less than twenty-one (21) years of age. However, a child caring institution that only serves children who are at least thirteen (13) years of age and less than twenty-one (21) years of age must have on duty, when children are being cared for, at least one (1) child care provider who is annually certified in a program on cardiopulmonary resuscitation as required by the department.

As added by P.L.145-2006, SEC.273.

IC 31-27-3-3

Apply for licenses; criminal history checks

Sec. 3. (a) An applicant must apply for a child caring institution license on forms provided by the department.

(b) An applicant must submit the required information as part of the application.

(c) The applicant must submit with the application a statement attesting the following:

(1) Whether the applicant has been convicted of:

(A) a felony; or

(B) a misdemeanor relating to the health and safety of children.

(2) Whether the applicant has been charged with:

(A) a felony; or

(B) a misdemeanor relating to the health and safety of children;

during the pendency of the application.

(d) The department, on behalf of an applicant, or, at the discretion of the department, an applicant, shall conduct a criminal history check of the following:

(1) Each individual who is an applicant.

(2) The director or manager of a facility where children will be placed.

(3) An employee or a volunteer of the applicant who has or will have direct contact on a regular and continuing basis with a child who is or will be placed in a facility operated by the applicant.

(e) If the applicant conducts a criminal history check under subsection (d), the applicant shall:

(1) maintain records of the information it receives concerning each individual who is the subject of a criminal history check; and

(2) submit to the department a copy of the information it receives concerning each person described in subsection (d)(1) through (d)(3).

(f) If the department conducts a criminal history check on behalf of an applicant under subsection (d), the department shall:

(1) determine whether the subject of a national fingerprint based criminal history check has a record of:

(A) a conviction for a felony;

(B) a conviction for a misdemeanor relating to the health and safety of a child; or

(C) a juvenile adjudication for an act listed in IC 31-27-4-13(a) that, if committed by an adult, would be a felony;

(2) notify the applicant of the determination under subdivision (1) without identifying a specific offense or other identifying information concerning a conviction or juvenile adjudication contained in the national criminal history record information;

(3) submit to the applicant a copy of any state limited criminal history report that the department receives on behalf of any

person described in subsection (d); and

(4) maintain a record of every report and all information the department receives concerning a person described in subsection (d).

(g) Except as provided in subsection (h), a criminal history check described in subsection (d) is required only at the time an application for a new license or the renewal of an existing license is submitted.

(h) A criminal history check of a person described in subsection (d)(2) or (d)(3) must be completed on or before the date the person:

(1) is employed;

(2) is assigned as a volunteer; or

(3) has direct contact on a regular and continuing basis with a child who is or will be placed in a facility operated by the applicant.

(i) The applicant or facility is responsible for any fees associated with a criminal history check.

(j) The department shall, at the applicant's request, inform the applicant whether the department has or does not have a record of the person who is the subject of a criminal history check and if the department has identified the person as an alleged perpetrator of abuse or neglect. The department may not provide to the applicant any details or personally identifying information contained in any child protective services investigation report.

(k) A person who is the subject of a criminal history check conducted in accordance with this section may request the state police department to provide the person with a copy of any state or national criminal history report concerning the person.

As added by P.L.145-2006, SEC.273. Amended by P.L.138-2007, SEC.47; P.L.162-2011, SEC.23; P.L.128-2012, SEC.96.

IC 31-27-3-4

Child caring institution established by county; operation

Sec. 4. (a) A county may establish a child caring institution. The child caring institution may be operated by:

(1) the county; or

(2) a public or private agency under contract with the county;

and must be operated under the rules adopted by the director under this article.

(b) This section does not affect the following:

(1) IC 31-31-1-1 or IC 31-40, requiring the county fiscal body to appropriate sufficient money to pay for services ordered by the juvenile court.

(2) IC 31-31-8, authorizing the juvenile court to establish detention and shelter care facilities.

(3) IC 12-13-5 and IC 12-19-1, requiring the division of family resources, the office, and the county departments to provide care and treatment for delinquent children and children in need of services.

As added by P.L.145-2006, SEC.273.

IC 31-27-3-5

Grounds for denial of license applications; waiver

Sec. 5. (a) The following constitute sufficient grounds for a denial of a license application:

(1) A determination by the department of child abuse or neglect by:

(A) the applicant; or

(B) an employee or a volunteer of the applicant who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant.

(2) A criminal conviction of the applicant, or the director or manager of a facility where children will be placed by the applicant, of:

(A) a felony;

(B) a misdemeanor related to the health and safety of a child;

(C) a misdemeanor for operating a child caring institution, foster family home, group home, or child placing agency without a license under this article (or IC 12-17.4 before its repeal); or

(D) a misdemeanor for operating a child care center or child care home without a license under IC 12-17.2.

(3) A determination by the department that the applicant made false statements in the applicant's application for licensure.

(4) A determination by the department that the applicant made false statements in the records required by the department.

(5) A determination by the department that:

(A) the applicant; or

(B) an employee or a volunteer of the applicant who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant;

previously operated a home or facility without a license required under any applicable provision of this article (or IC 12-17.4 before its repeal) or IC 12-17.2.

(6) A juvenile adjudication of the applicant for an act listed in IC 31-27-4-13(a) that, if committed by an adult, would be a felony.

(b) An application for a license may also be denied if an employee or a volunteer of the applicant who has direct contact on a regular and continuous basis with children who are under the direct supervision of the applicant has had any of the following:

(1) A conviction of a felony described in IC 31-27-4-13(a).

(2) A conviction of any other felony or a misdemeanor relating to the health and safety of a child, unless the applicant is granted a waiver by the department to employ or assign the person as a volunteer in a position described in this subsection.

(3) A juvenile adjudication for an act listed in IC 31-27-4-13(a) that, if committed by an adult, would be a felony, unless the applicant is granted a waiver by the department to employ or

assign the person as a volunteer in a position described in this subsection.

(c) In determining whether to grant a waiver under subsection (b), the department shall consider the following factors:

(1) The length of time that has passed since the disqualifying conviction.

(2) The severity, nature, and circumstances of the offense.

(3) Evidence of rehabilitation.

(4) The duties and qualifications required for the proposed employment positions or volunteer assignment.

(d) Notwithstanding subsection (a) or (b), if:

(1) a license application could be denied due to a criminal conviction of, or a determination of child abuse or neglect by, an employee or a volunteer of the applicant; and

(2) the department determines that the employee or volunteer has been dismissed before the employee or volunteer has direct contact on a regular and continuing basis with a child who is or will be placed in a facility operated by the applicant;

the criminal conviction of, or determination of child abuse or neglect by, the former employee or former volunteer does not constitute a sufficient basis for the denial of a license application.

(e) The department may adopt rules to implement this section.

As added by P.L.145-2006, SEC.273. Amended by P.L.138-2007, SEC.48; P.L.162-2011, SEC.24; P.L.128-2012, SEC.97.

IC 31-27-3-6

Incomplete applications

Sec. 6. The department may not act on an incomplete application. The department shall return an incomplete application with a notation concerning omissions. The return of an incomplete application is without prejudice.

As added by P.L.145-2006, SEC.273.

IC 31-27-3-7

Investigation of applicants

Sec. 7. The department shall investigate a person seeking licensure to determine whether the person is in compliance with this article and the rules adopted under this article. The investigation shall be conducted at a reasonable time and in a reasonable manner, in announced or unannounced visits. Activities may include onsite inspections, record reading, observation, and interviewing. The department may require that evidence of compliance with the rules be presented in a form and manner specified in the rules.

As added by P.L.145-2006, SEC.273.

IC 31-27-3-8

Issuance of license

Sec. 8. The department shall issue a license to a person who meets all of the license requirements when an investigation shows the applicant to be in compliance under this article.

As added by P.L.145-2006, SEC.273.

IC 31-27-3-9
Eligibility for waivers and variances

Sec. 9. A child caring institution may be eligible to receive a waiver or variance from the requirements of this chapter by complying with IC 31-27-2-8.
As added by P.L.145-2006, SEC.273.

IC 31-27-3-10
Waiver of maximum stay for child

Sec. 10. (a) The department may grant a waiver of the twenty (20) day maximum stay for a child if the child caring institution licensed as a shelter care facility applies for the waiver before the expiration of the twenty (20) day period.

(b) The child caring institution shall document in the request for a waiver that the waiver is in the best interest of the child.
As added by P.L.145-2006, SEC.273. Amended by P.L.48-2012, SEC.26.

IC 31-27-3-11
Denial of license

Sec. 11. (a) The department shall deny a license when an applicant fails to meet the requirements for a license.

(b) The department shall send written notice by certified mail that the application has been denied and give the reasons for the denial.

(c) An administrative hearing concerning the denial of a license shall be provided upon written request by the applicant. The request must be made not more than thirty (30) days after receiving the written notice under subsection (b).

(d) An administrative hearing shall be held in accordance with IC 4-21.5-3.
As added by P.L.145-2006, SEC.273. Amended by P.L.128-2012, SEC.98.

IC 31-27-3-12
Investigation of unlicensed premises

Sec. 12. The department is responsible for investigating any premises that the department has reason to believe are being used for child care without a license in circumstances where a license is required.
As added by P.L.145-2006, SEC.273.

IC 31-27-3-13
Duration of license; limitations; renewal; public display

Sec. 13. (a) A license for a child caring institution expires four (4) years after the date of issuance, unless the license is revoked or voluntarily returned.

(b) A license issued under this chapter:

(1) is not transferable;

(2) applies only to the licensee and the location stated in the application; and

(3) remains the property of the department.

(c) When a licensee submits a timely application for renewal, the current license remains in effect until the department issues a license or denies the application.

(d) A current license must be publicly displayed.

As added by P.L.145-2006, SEC.273. Amended by P.L.146-2006, SEC.27; P.L.128-2012, SEC.99.

IC 31-27-3-14

Probationary status; duration; expiration; extension

Sec. 14. (a) The department may place a licensee on probationary status if the licensee is temporarily unable to comply with a rule and if:

(1) the noncompliance does not present an immediate threat to the health and well-being of the children;

(2) the licensee files a plan with the department, state department of health, or the state fire marshal to correct the areas of noncompliance within the probationary period; and

(3) the department, state department of health, or state fire marshal approves the plan.

(b) A probationary status period is for not more than six (6) months. However, the department may extend a probationary status period for one (1) additional period of six (6) months.

(c) At the expiration of a probationary status period, the department shall:

(1) reactivate the license to the end of the original term of the license;

(2) extend the probationary status period as permitted under subsection (b); or

(3) revoke the license.

As added by P.L.145-2006, SEC.273. Amended by P.L.146-2006, SEC.28.

IC 31-27-3-15

Inspections

Sec. 15. The department and the state fire marshal shall do the following:

(1) Make annual onsite inspections.

(2) Keep written records of their monitoring activities and inspections.

As added by P.L.145-2006, SEC.273.

IC 31-27-3-16

Cooperation by licensees

Sec. 16. A licensee shall cooperate with the department, the state fire marshal, and any other state agency working on behalf of the department in carrying out the activities required by section 15 of this chapter, including permitting the department, the state fire marshal,

and any other state agency working on behalf of the department to conduct announced or unannounced inspections.
As added by P.L.145-2006, SEC.273. Amended by P.L.128-2012, SEC.100.

IC 31-27-3-17
Sprinkler system requirements

Sec. 17. The fire prevention and building safety commission may not adopt rules requiring the installation of a sprinkler system in a living unit of a licensed child caring institution in which fewer than sixteen (16) children reside, each of whom is:

(1) ambulatory; and
(2) at least six (6) years of age.

As added by P.L.145-2006, SEC.273.

IC 31-27-3-18
Records

Sec. 18. (a) A licensee shall keep records regarding each child in the control and care of the licensee as the department requires and shall report to the department upon request the facts the department requires with reference to children.

(b) The department shall keep records regarding children and facts learned about children and the children's relatives confidential.

(c) The following have access to records regarding children and facts learned about children:

(1) A state agency involved in the licensing of the child caring institution.
(2) A legally mandated child protection agency.
(3) A law enforcement agency.
(4) An agency having the legal responsibility to care for a child placed at the child caring institution.
(5) The parent, guardian, or custodian of the child at the child caring institution.
(6) A citizen review panel established under IC 31-25-2-20.4.
(7) The department of child services ombudsman established by IC 4-13-19-3.

As added by P.L.145-2006, SEC.273. Amended by P.L.138-2007, SEC.49; P.L.182-2009(ss), SEC.374; P.L.123-2014, SEC.11.

IC 31-27-3-19
Notice of enforcement actions; informal meetings

Sec. 19. Except as provided in section 29 of this chapter, the department shall give a licensee thirty (30) days written notice by certified mail of an enforcement action. The licensee shall also be provided with the opportunity for an informal meeting with the department. The licensee must request the meeting not more than ten (10) working days after receipt of the certified notice.
As added by P.L.145-2006, SEC.273.

IC 31-27-3-20

Administrative hearings

Sec. 20. An administrative hearing concerning the decision of the department to impose a sanction under this chapter shall be provided upon a written request by the child caring institution. The request must be made not more than thirty (30) days after receiving notice under section 19 of this chapter. The written request must be made separately from an informal meeting request made under section 19 of this chapter.

As added by P.L.145-2006, SEC.273. Amended by P.L.128-2012, SEC.101.

IC 31-27-3-21

Procedure for administrative hearings

Sec. 21. A hearing requested under section 20 of this chapter shall be held in accordance with IC 4-21.5-3.

As added by P.L.145-2006, SEC.273.

IC 31-27-3-22

Repealed

(Repealed by P.L.128-2012, SEC.102.)

IC 31-27-3-23

Repealed

(Repealed by P.L.146-2006, SEC.60.)

IC 31-27-3-24

Repealed

(Repealed by P.L.146-2006, SEC.60.)

IC 31-27-3-25

Repealed

(Repealed by P.L.146-2006, SEC.60.)

IC 31-27-3-26

Cessation of operation upon revocation of license

Sec. 26. A child caring institution shall cease operation when the license of the child caring institution is revoked.

As added by P.L.145-2006, SEC.273.

IC 31-27-3-27

Notice

Sec. 27. (a) After a license is revoked, the department shall notify in writing each person responsible for each child in care to ensure that those children are removed.

(b) The written notice shall be sent to the last known address of the person responsible for the child in care and shall state that the license of the child caring institution has been revoked.

As added by P.L.145-2006, SEC.273. Amended by P.L.146-2006, SEC.29.

IC 31-27-3-28
Repealed

(Repealed by P.L.128-2012, SEC.103.)

IC 31-27-3-29
Investigations of noncompliance; injunctions; corrective action plans; removal of children; informal meetings

Sec. 29. (a) The department shall investigate a report of a licensed child caring institution's noncompliance with this article or the rules adopted under this article. If there is reasonable cause to believe that a licensee's noncompliance with this article and rules adopted under this article creates an imminent danger of serious bodily injury to a child or an imminent danger to the health of a child, the department shall report the department's findings to the attorney general and to the local office and the prosecuting attorney in the county where the institution is located.

(b) The attorney general or the department may do the following:

(1) Seek the issuance of a search warrant to assist in the investigation.

(2) File an action for injunctive relief to stop the operation of a child caring institution if there is reasonable cause to believe that a licensee's noncompliance with this article or the rules adopted under this article creates an imminent danger of serious bodily injury to a child or an imminent danger to the health of a child.

(c) The department may require a plan of corrective action, including a hold on new placements, for emergency protection of the children described in subsection (b).

(d) The department may provide for the removal of children from child caring institutions described in subsection (b).

(e) An opportunity for an informal meeting with the department shall be available after the injunctive relief is ordered.

As added by P.L.145-2006, SEC.273. Amended by P.L.128-2012, SEC.104.

IC 31-27-3-30
Expiration of injunctions for creation of imminent danger

Sec. 30. A court order granted under section 29(b)(2) of this chapter expires upon the later of the following:

(1) Sixty (60) days after the order is issued.

(2) When a final department decision is issued under sections 20 and 21 of this chapter if notice of an enforcement action is issued under section 19 of this chapter.

As added by P.L.145-2006, SEC.273. Amended by P.L.128-2012, SEC.105.

IC 31-27-3-31
Grounds for revocation of licenses; waiver

Sec. 31. (a) The following constitute sufficient grounds for revocation of a license:

(1) A determination by the department of child abuse or neglect by:

(A) the licensee; or

(B) an employee or a volunteer of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee.

(2) A criminal conviction of the licensee, or the director or manager of a facility where children will be placed by the licensee, of any of the following:

(A) A felony.

(B) A misdemeanor related to the health or safety of a child.

(C) A misdemeanor for operating a child caring institution, foster family home, group home, or child placing agency without a license under this article (or IC 12-17.4 before its repeal).

(D) A misdemeanor for operating a child care center or child care home without a license under IC 12-17.2.

(3) A determination by the department that the licensee made false statements in the licensee's application for licensure.

(4) A determination by the department that the licensee made false statements in the records required by the department.

(5) A determination by the department that:

(A) the licensee; or

(B) an employee or a volunteer of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee;

previously operated a home or facility without a license required under any applicable provision of this article (or IC 12-17.4 before its repeal) or IC 12-17.2.

(6) A juvenile adjudication of a licensee for an act listed in IC 31-27-4-13(a) that, if committed by an adult, would be a felony.

(b) A license may also be revoked if an employee or volunteer of the licensee who has direct contact on a regular and continuous basis with children who are under the direct supervision of the licensee has had any of the following:

(1) A conviction of a felony described in IC 31-27-4-13(a).

(2) A conviction of any other felony or a misdemeanor relating to the health and safety of a child, unless the licensee is granted a waiver by the department to employ or assign the person as a volunteer in a position described in this subsection.

(3) A juvenile adjudication for an act listed in IC 31-27-4-13(a) that, if committed by an adult, would be a felony, unless the licensee is granted a waiver by the department to employ or assign the person as a volunteer in a position described in this subsection.

(c) In determining whether to grant a waiver under subsection (b), the department shall consider the following factors:

(1) The length of time that has passed since the disqualifying conviction.

(2) The severity, nature, and circumstances of the offense.
(3) Evidence of rehabilitation.
(4) The duties and qualifications required for the proposed employment positions or volunteer assignment.

(d) Notwithstanding subsection (a) or (b), if:
(1) a license could be revoked due to a criminal conviction of, or a determination of child abuse or neglect by, an employee or a volunteer of the licensee; and
(2) the department determines that the employee or volunteer has been dismissed by the licensee within a reasonable time after the licensee became aware of the conviction or determination;

the criminal conviction of, or determination of child abuse or neglect by, the former employee or former volunteer does not constitute a sufficient basis for the revocation of a license.

(e) The department may adopt rules to implement this section.

As added by P.L.145-2006, SEC.273. Amended by P.L.138-2007, SEC.50; P.L.162-2011, SEC.25.

IC 31-27-3-32

Compliance with rules; disciplinary sanctions; revocation of license

Sec. 32. (a) A licensee shall operate a child caring institution in compliance with the rules established under this article and is subject to the disciplinary sanctions under subsection (b) if the department finds that the licensee has violated this article or a rule adopted under this article.

(b) After complying with the procedural provisions in sections 19 through 21 of this chapter, the department may revoke the license when the department finds that a licensee has committed a violation under subsection (a).

As added by P.L.145-2006, SEC.273. Amended by P.L.146-2006, SEC.30; P.L.128-2012, SEC.106.

IC 31-27-3-33

Investigations of unlicensed operation; injunctions; civil penalties

Sec. 33. (a) The department shall investigate a report of an unlicensed child caring institution and report the department's findings to the attorney general and to the local office and the prosecuting attorney in the county where the institution is located.

(b) The attorney general or the department may do the following:
(1) Seek the issuance of a search warrant to assist in the investigation.
(2) File an action for injunctive relief to stop the operation of a child caring institution if there is reasonable cause to believe that the child caring institution is operating without a license required under this article.
(3) Seek in a civil action a civil penalty not to exceed one hundred dollars ($100) a day for each day a child caring institution is operating without a license required under this article.

(c) An opportunity for an informal meeting with the department shall be available after the injunctive relief is ordered.

(d) The civil penalties collected under this section shall be deposited in the department of child services child care fund established by IC 31-25-2-16.

As added by P.L.145-2006, SEC.273. Amended by P.L.1-2007, SEC.202; P.L.128-2012, SEC.107.

IC 31-27-3-34

Expiration of injunction for unlicensed operation

Sec. 34. A court order granted under section 33(b)(2) of this chapter expires when the child caring institution is issued a license.

As added by P.L.145-2006, SEC.273.

IC 31-27-3-35

Violations of chapter

Sec. 35. A person who knowingly or intentionally violates this chapter commits a Class B misdemeanor.

As added by P.L.145-2006, SEC.273.

IC 31-27-4

Chapter 4. Regulation of Foster Homes

IC 31-27-4-1

License required to operate foster family home; exception

Sec. 1. (a) Except as provided in subsection (d), a person may not operate a foster family home without a license issued under this article.

(b) The state or a political subdivision of the state may not operate a foster family home without a license issued under this article.

(c) A person may not operate a foster family home if:

(1) the number of children maintained on the premises at any one (1) time is greater than the number authorized by the license; or

(2) the children are maintained in a building or place not designated by the license.

(d) A person may operate a foster family home without a license issued under this article if the person is a relative of the child for whom the person is providing supervision and care.

As added by P.L.145-2006, SEC.273. Amended by P.L.48-2012, SEC.27; P.L.123-2014, SEC.12.

IC 31-27-4-2

Therapeutic foster home; certificates; requirements; supervision and care limits

Sec. 2. (a) A person may not operate a therapeutic foster family home without a certificate issued under this article.

(b) The state or a political subdivision of the state may not operate a therapeutic foster family home without a certificate issued under this article.

(c) The department may issue a certificate only for a therapeutic foster family home that meets:

(1) all the certification requirements of a foster family home; and

(2) the additional requirements described in this section.

(d) To receive a certificate for the operation of a therapeutic foster family home, a person must do the following:

(1) Be licensed as a foster parent under this chapter and 465 IAC 2-1-1 et seq.

(2) Participate in preservice training that includes:

(A) preservice training to be licensed as a foster parent under 465 IAC 2-1-1 et seq.; and

(B) additional preservice training in therapeutic foster care.

(e) A person who is issued a certificate to operate a therapeutic foster family home shall, within one (1) year after meeting the training requirements of subsection (d)(2) and, annually thereafter, participate in training that includes:

(1) training as required in order to be licensed as a foster parent under 465 IAC 2-1-1 et seq.; and

(2) additional training in therapeutic foster care.

(f) An operator of a therapeutic foster family home may not provide supervision and care in a therapeutic foster family home to more than four (4) children at the same time, including the children for whom the applicant or operator is a relative, guardian, or custodian, and only two (2) of the children may be foster children. The department may grant an exception to this subsection whenever the placement of siblings in the same therapeutic foster family home is desirable, the foster child has an established, meaningful relationship with the therapeutic foster parent, or it is otherwise in the foster child's best interests.

(g) An operator of a therapeutic foster family home that has a therapeutic foster child placed with the therapeutic foster family home may not accept a placement of a child who is not a therapeutic foster child unless the child who is not a therapeutic foster child is a sibling of the therapeutic foster child who is placed with the therapeutic foster family home or it is in the best interests of the child being placed.

(h) A therapeutic foster family home may provide care for an individual receiving collaborative care under IC 31-28-5.8.

(i) The department shall adopt rules under IC 4-22-2, including emergency rules under IC 4-22-2-37.1, necessary to carry out this section, including rules governing the number of hours of training required under subsections (d) and (e).

(j) If a therapeutic foster family home does not meet the requirements under subsection (f) or (g) on July 1, 2011, any foster child placed in the home prior to July 1, 2011, may remain placed. However, a new placement of a child may not be made in violation of this section.

As added by P.L.145-2006, SEC.273. Amended by P.L.143-2008, SEC.7; P.L.131-2009, SEC.36; P.L.162-2011, SEC.26; P.L.48-2012, SEC.28; P.L.13-2013, SEC.77; P.L.123-2014, SEC.13.

IC 31-27-4-3
Repealed

(Repealed by P.L.48-2012, SEC.29.)

IC 31-27-4-4
Consultation with fire prevention and building safety commission

Sec. 4. The fire prevention and building safety commission shall provide consultation regarding the licensure of foster family homes to the department upon request.

As added by P.L.145-2006, SEC.273.

IC 31-27-4-5
Apply for licenses; criminal history checks

Sec. 5. (a) An applicant must apply for a foster family home license on forms provided by the department.

(b) An applicant must submit the required information as part of the application.

(c) An applicant must submit with the application a statement

attesting the following:

(1) Whether the applicant has been convicted of:

(A) a felony; or

(B) a misdemeanor relating to the health and safety of children.

(2) Whether the applicant has been charged with:

(A) a felony; or

(B) a misdemeanor relating to the health and safety of children;

during the pendency of the application.

(d) An applicant shall submit the necessary information, forms, or consents for the department to conduct a criminal history check for each individual who is an applicant.

(e) The department or, at the discretion of the department, an applicant, shall conduct a criminal history check of:

(1) the applicant's employees and volunteers who have or will have direct contact, on a regular and continuing basis, with children who are or will be under the direct supervision of the applicant; and

(2) all household members who are at least fourteen (14) years of age.

(f) If the applicant conducts criminal history checks under subsection (e), the applicant shall maintain records of the information received concerning each individual subject of a criminal history check.

(g) If the department conducts a criminal history check on behalf of an applicant under subsection (e), the department shall:

(1) make a determination whether the subject of a national fingerprint based criminal history check has a record of:

(A) a conviction for a felony;

(B) a conviction for a misdemeanor relating to the health and safety of a child; or

(C) a juvenile adjudication for an act listed in section 13(a) of this chapter that, if committed by an adult, would be a felony;

(2) notify the applicant of the determination under subdivision (1) without identifying a specific offense or other identifying information concerning a conviction or juvenile adjudication contained in the national criminal history record information;

(3) submit to the applicant a copy of any state limited criminal history report that the department receives on behalf of any person described in subsection (e); and

(4) maintain a record of every report and all information the department receives concerning a person described in subsection (e).

(h) Except as provided in subsection (i), a criminal history check described in subsection (e) is required only at the time an application for a new license or the renewal of an existing license is submitted.

(i) A criminal history check concerning a person described in subsection (e) must be completed on or before the date the employee

or volunteer has direct contact on a regular and continuing basis with a child placed in the home or the person first becomes a resident of the applicant's household as described in subsection (e)(2).

(j) The applicant is responsible for any fees associated with a criminal history check.

(k) The department shall, at the applicant's request, inform the applicant whether the department has or does not have a record of the person who is the subject of a criminal history check and if the department has identified the person as an alleged perpetrator of abuse or neglect. The department may not provide to the applicant any details or personally identifying information contained in any child protective investigation report.

(l) A person who is the subject of a criminal history check conducted in accordance with this section may request the state police department to provide the person with a copy of any state or national criminal history report concerning the person.

As added by P.L.145-2006, SEC.273. Amended by P.L.138-2007, SEC.51; P.L.162-2011, SEC.28; P.L.128-2012, SEC.108.

IC 31-27-4-6

Grounds for denial of license applications; waiver

Sec. 6. (a) The following constitute sufficient grounds for a denial of a license application:

(1) A determination by the department of child abuse or neglect by:

(A) the applicant;

(B) an employee or a volunteer of the applicant who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant; or

(C) a person residing in the applicant's residence.

(2) A criminal conviction of the applicant of any of the following:

(A) a felony;

(B) a misdemeanor related to the health and safety of a child;

(C) a misdemeanor for operating a child care center or child care home without a license under IC 12-17.2-5; or

(D) a misdemeanor for operating a foster family home without a license under this chapter (or IC 12-17.4-4 before its repeal).

(3) A determination by the department that the applicant made false statements in the applicant's application for licensure.

(4) A determination by the department that the applicant made false statements in the records required by the department.

(5) A determination by the department that:

(A) the applicant;

(B) an employee or a volunteer of the applicant who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant; or

(C) a person residing in the applicant's residence;

previously operated a child care center or child care home without a license under IC 12-17.2-5 or a foster family home without a license under this chapter (or IC 12-17.4-4 before its repeal).

(6) A juvenile adjudication of the applicant for an act listed in section 13(a) of this chapter that, if committed by an adult, would be a felony.

(b) An application for a license may also be denied if an individual who resides in the residence of the applicant or an employee or volunteer of the applicant who has direct contact on a regular and continuous basis with children who are under the direct supervision of the applicant has had any of the following:

(1) A conviction of a felony described in IC 31-27-4-13(a).

(2) A conviction of any other felony or a misdemeanor relating to the health and safety of a child, unless the applicant is granted a waiver by the department to employ or assign the person as a volunteer in a position described in this subsection or to permit the individual to reside in the applicant's residence.

(3) A juvenile adjudication for an act listed in section 13(a) of this chapter that, if committed by an adult, would be a felony, unless the applicant is granted a waiver by the department to:

(A) employ or assign the person as a volunteer in a position described in this subsection; or

(B) permit the individual to reside in the applicant's residence.

(c) In determining whether to grant a waiver under subsection (b), the department shall consider the following factors:

(1) The length of time that has passed since the disqualifying conviction.

(2) The severity, nature, and circumstances of the offense.

(3) Evidence of rehabilitation.

(4) The duties and qualifications required for the proposed employment positions or volunteer assignment.

(5) The nature and extent of unsupervised contact with children residing in the home.

(d) Notwithstanding subsection (a) or (b), if:

(1) a license application could be denied due to a criminal conviction of, or a determination of child abuse or neglect by, an employee, a volunteer, or a person residing in the residence of the applicant; and

(2) the department determines that the employee or volunteer has been dismissed before the employee or volunteer has direct contact on a regular and continuing basis with a child who is or will be placed in a facility operated by the applicant or that the person residing in the residence no longer resides there;

the criminal conviction of, or determination of child abuse or neglect by, the former employee, former volunteer, or former household resident does not constitute a sufficient basis for the denial of a license application.

(e) The department may adopt rules to implement this section.
As added by P.L.145-2006, SEC.273. Amended by P.L.138-2007, SEC.52; P.L.162-2011, SEC.29; P.L.128-2012, SEC.109.

IC 31-27-4-7
Incomplete applications

Sec. 7. The department may not act on an incomplete application. The department shall return an incomplete application with a notation concerning omissions. The return of an incomplete application is without prejudice.
As added by P.L.145-2006, SEC.273.

IC 31-27-4-8
Supervision and care limits; exceptions

Sec. 8. (a) An applicant may not provide supervision and care as a foster family home if more than:

(1) five (5) individuals, each of whom:
(A) is less than eighteen (18) years of age; or
(B) is at least eighteen (18) years of age and is receiving care and supervision under an order of a juvenile court; or
(2) four (4) individuals less than six (6) years of age;

including the children or individuals for whom the provider is a relative, guardian, or custodian, receive care and supervision at the facility at the same time.

(b) Not more than four (4) of the five (5) individuals in subsection (a)(1) may be less than six (6) years of age.

(c) The department may grant an exception to this section whenever the department determines that:

(1) the placement of siblings in the same foster family home is desirable;
(2) a foster child has an established, meaningful relationship with the foster parents; or
(3) it is otherwise in the foster child's best interests.

(d) If a foster family home does not meet the requirements under subsection (a) on July 1, 2011, any foster child placed in the home prior to July 1, 2011, may remain placed. However, a new placement of a child may not be made in violation of this section.
As added by P.L.145-2006, SEC.273. Amended by P.L.143-2008, SEC.9; P.L.162-2011, SEC.30; P.L.48-2012, SEC.30; P.L.123-2014, SEC.14.

IC 31-27-4-9
Repealed

(Repealed by P.L.123-2014, SEC.15.)

IC 31-27-4-10
Investigation of applicants

Sec. 10. The department shall investigate a person seeking licensure to determine whether the person is in compliance with this article and the rules adopted under this article. The investigation shall

be conducted at a reasonable time and in a reasonable manner in announced or unannounced visits. Activities may include onsite inspections, record reading, observation, and interviewing. The department may require that evidence of compliance with the rules be presented in a form and manner specified in the rules.
As added by P.L.145-2006, SEC.273.

IC 31-27-4-11
Issuance of license

Sec. 11. The department shall issue a license to a person who meets all the license requirements when an investigation shows the applicant to be in compliance under this article.
As added by P.L.145-2006, SEC.273.

IC 31-27-4-12
Eligibility for waivers and variances

Sec. 12. A foster family home may be eligible to receive a waiver or variance from the requirements of this chapter by complying with IC 31-27-2-8.
As added by P.L.145-2006, SEC.273.

IC 31-27-4-13
Denial of license; notice; administrative hearing upon written request

Sec. 13. (a) The department shall deny a license when an applicant fails to meet the requirements for a license. The department shall deny a license to an applicant who has been convicted of any of the following felonies:

(1) Murder (IC 35-42-1-1).
(2) Causing suicide (IC 35-42-1-2).
(3) Assisting suicide (IC 35-42-1-2.5).
(4) Voluntary manslaughter (IC 35-42-1-3).
(5) Reckless homicide (IC 35-42-1-5).
(6) Battery (IC 35-42-2-1) within the past five (5) years.
(7) Domestic battery (IC 35-42-2-1.3).
(8) Aggravated battery (IC 35-42-2-1.5).
(9) Kidnapping (IC 35-42-3-2).
(10) Criminal confinement (IC 35-42-3-3) within the past five (5) years.
(11) A felony sex offense under IC 35-42-4.
(12) Carjacking (IC 35-42-5-2) (repealed) within the past five (5) years.
(13) Arson (IC 35-43-1-1) within the past five (5) years.
(14) Incest (IC 35-46-1-3).
(15) Neglect of a dependent (IC 35-46-1-4(a)(1) and IC 35-46-1-4(a)(2)).
(16) Child selling (IC 35-46-1-4(d)).
(17) A felony involving a weapon under IC 35-47 or IC 35-47.5 within the past five (5) years.
(18) A felony relating to controlled substances under IC 35-48-4

within the past five (5) years.

(19) An offense relating to material or a performance that is harmful to minors or obscene under IC 35-49-3.

(20) A felony under IC 9-30-5.

(21) A felony that is substantially equivalent to a felony listed in subdivisions (1) through (20) for which the conviction was entered in another state.

(b) The department may deny a license to an applicant who:

(1) has been convicted of a felony that is not listed in subsection (a); or

(2) has had a juvenile adjudication for an act listed in subsection (a) that, if committed by an adult, would be a felony.

(c) The department shall send written notice by certified mail that the application has been denied and give the reasons for the denial.

(d) An administrative hearing concerning the denial of a license shall be provided upon written request by the applicant. The request must be made not more than thirty (30) days after receiving the written notice under subsection (c).

(e) An administrative hearing shall be held in accordance with IC 4-21.5-3.

As added by P.L.145-2006, SEC.273. Amended by P.L.138-2007, SEC.53; P.L.162-2011, SEC.31; P.L.128-2012, SEC.110; P.L.158-2013, SEC.313.

IC 31-27-4-14

Delegation of investigations

Sec. 14. (a) The department may delegate the investigation of foster family homes to a licensed child placing agency. The child placing agency is responsible for completing a foster family home licensing study that shows substantial compliance with foster family home rules and is the basis of a recommendation for licensure to the department.

(b) The department shall:

(1) issue the license; or

(2) notify the child placing agency if a license is not issued, giving the reasons for the denial.

(c) After licensure the child placing agency shall supervise and monitor the foster family home in relation to the rules for licensure and shall recommend subsequent licensing and enforcement actions.

As added by P.L.145-2006, SEC.273.

IC 31-27-4-15

Investigation of unlicensed premises

Sec. 15. The department shall investigate any premises that the department has reason to believe are being used for child care without a license in circumstances where a license is required.

As added by P.L.145-2006, SEC.273.

IC 31-27-4-16

Duration of license; limitations; renewal

Sec. 16. (a) A license for a foster family home is valid for four (4) years from the date of issuance, unless the license is revoked or voluntarily returned.

(b) A license issued under this chapter:

(1) is not transferable;

(2) applies only to the licensee and the location stated in the application; and

(3) remains the property of the department.

(c) A foster family home shall have the foster family home's license available for inspection.

(d) To extend a license an additional four (4) years, the home must apply for relicensure. The current license shall remain in effect during the relicensure process until the department issues a license or denies the application.

As added by P.L.145-2006, SEC.273. Amended by P.L.146-2006, SEC.31; P.L.128-2012, SEC.111.

IC 31-27-4-17

Probationary status; duration; expiration; extension

Sec. 17. (a) The department may place a licensee on probationary status if the licensee is temporarily unable to comply with a rule and if:

(1) the noncompliance does not present an immediate threat to the health and well-being of the children;

(2) the licensee files a plan with the department to correct the areas of noncompliance within the probationary period; and

(3) the department approves the plan.

(b) A probationary status period is for not more than six (6) months. However, the department may extend a probationary status period for one (1) additional period of six (6) months.

(c) At the expiration of a probationary status period, the department shall:

(1) reactivate the license to the end of the original term of the license;

(2) extend the probationary status period as permitted under subsection (b); or

(3) revoke the license.

As added by P.L.145-2006, SEC.273. Amended by P.L.146-2006, SEC.32.

IC 31-27-4-18

Inspection of foster family homes

Sec. 18. The department may conduct an inspection of a foster family home for the sole purpose of inquiry into matters as stated in the rules, including those directly affecting the health, safety, treatment, and general well-being of the children protected under this article.

As added by P.L.145-2006, SEC.273.

IC 31-27-4-19

Records of monitoring activities and inspections

Sec. 19. The department shall keep written records of the department's monitoring activities and onsite inspections.

As added by P.L.145-2006, SEC.273.

IC 31-27-4-20

Cooperation by licensees

Sec. 20. The licensee shall cooperate with the department in carrying out the activities required by sections 18 through 19 of this chapter, including permitting the department to conduct announced or unannounced inspections.

As added by P.L.145-2006, SEC.273.

IC 31-27-4-21

Records regarding children

Sec. 21. (a) A licensee shall keep records required by the department regarding each child in the control and care of the licensee and shall report to the department upon request the facts the department requires with reference to children.

(b) The department shall keep records regarding children and facts learned about children and the children's relatives confidential.

(c) The following have access to records regarding children and facts learned about children:

(1) A state agency involved in the licensing of the foster family home.

(2) A legally mandated child protection agency.

(3) A law enforcement agency.

(4) An agency having the legal responsibility to care for a child placed at the foster family home.

(5) The parent, guardian, or custodian of the child at the foster family home.

(6) A citizen review panel established under IC 31-25-2-20.4.

(7) The department of child services ombudsman established by IC 4-13-19-3.

As added by P.L.145-2006, SEC.273. Amended by P.L.138-2007, SEC.54; P.L.182-2009(ss), SEC.375; P.L.123-2014, SEC.16.

IC 31-27-4-22

Notice of enforcement actions; informal meetings

Sec. 22. The department shall give a licensee thirty (30) days written notice by certified mail of an enforcement action. The licensee shall also be provided with the opportunity for an informal meeting with the department. The licensee must request the meeting not more than ten (10) working days after receipt of the certified notice.

As added by P.L.145-2006, SEC.273.

IC 31-27-4-23

Administrative hearings

Sec. 23. An administrative hearing concerning the decision of the

department to impose a sanction under this chapter shall be provided upon a written request by the licensee. The request must be made not more than thirty (30) calendar days after the licensee receives notice under section 22 of this chapter. The written request must be made separately from an informal meeting request made under section 22 of this chapter.
As added by P.L.145-2006, SEC.273. Amended by P.L.128-2012, SEC.112.

IC 31-27-4-24
Procedure for administrative hearings
Sec. 24. A hearing requested under section 23 of this chapter shall be held in accordance with IC 4-21.5-3.
As added by P.L.145-2006, SEC.273.

IC 31-27-4-25
Repealed
(Repealed by P.L.128-2012, SEC.113.)

IC 31-27-4-26
Repealed
(Repealed by P.L.146-2006, SEC.60.)

IC 31-27-4-27
Repealed
(Repealed by P.L.146-2006, SEC.60.)

IC 31-27-4-28
Repealed
(Repealed by P.L.146-2006, SEC.60.)

IC 31-27-4-29
Cessation of operation following revocation of license
Sec. 29. A foster family home shall cease operation when the license of the foster family home is revoked.
As added by P.L.145-2006, SEC.273.

IC 31-27-4-30
Notice
Sec. 30. (a) After the license of a foster family home is revoked, the department shall notify in writing each person responsible for each child in care, to ensure that the children are removed from the foster family home.
(b) The written notice shall be sent to the last known address of the person responsible for the child in care and must state that the license of the foster family home has been revoked.
As added by P.L.145-2006, SEC.273. Amended by P.L.146-2006, SEC.33.

IC 31-27-4-31

Repealed

(Repealed by P.L.128-2012, SEC.114.)

IC 31-27-4-32

Grounds for revocation of license; waiver

Sec. 32. (a) The following constitute sufficient grounds for revocation of a license:

(1) A determination by the department of child abuse or neglect by:

(A) the licensee;

(B) an employee or a volunteer of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee; or

(C) a person who is residing in the home of the licensee.

(2) A criminal conviction of the licensee for any of the following:

(A) A felony.

(B) A misdemeanor related to the health or safety of a child.

(C) A misdemeanor for operating a child care center or child care home without a license under IC 12-17.2-5.

(D) A misdemeanor for operating a foster family home without a license under this chapter (or IC 12-17.4-4 before its repeal).

(3) A determination by the department that the licensee made false statements in the licensee's application for licensure.

(4) A determination by the department that the licensee made false statements in the records required by the department.

(5) A determination by the department that:

(A) the licensee;

(B) an employee or a volunteer of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee; or

(C) a person residing in the licensee's residence;

previously operated a child care center or child care home without a license under IC 12-17.2-5 or a foster family home without a license under this chapter (or IC 12-17.4-4 before its repeal).

(6) A juvenile adjudication of the licensee for an act listed in section 13(a) of this chapter that, if committed by an adult, would be a felony.

(b) A license may also be revoked if an individual who resides in the residence of the licensee or an employee or volunteer of the licensee who has direct contact on a regular and continuous basis with children who are under the direct supervision of the licensee has had any of the following:

(1) A conviction of a felony described in section 13(a) of this chapter.

(2) A conviction of any other felony or a misdemeanor relating to the health and safety of a child, unless the licensee is granted a waiver by the department to employ or assign the person as a

volunteer in a position described in this subsection or to permit the individual to reside in the licensee's residence.

(3) A juvenile adjudication for an act listed in section 13(a) of this chapter that, if committed by an adult, would be a felony, unless the licensee is granted a waiver by the department to:

(A) employ or assign the individual as a volunteer in a position described in this subsection; or

(B) permit the individual to reside in the licensee's residence.

(c) In determining whether to grant a waiver under subsection (b), the department shall consider the following factors:

(1) The length of time that has passed since the disqualifying conviction.

(2) The severity, nature, and circumstances of the offense.

(3) Evidence of rehabilitation.

(4) The duties and qualifications required for the proposed employment positions or volunteer assignment.

(d) Notwithstanding subsection (b), if:

(1) a license could be revoked due to a criminal conviction of, or a determination of child abuse or neglect by, an employee or a volunteer of the licensee or an individual residing in the residence of the licensee; and

(2) the department determines that the employee or volunteer has been dismissed by the licensee within a reasonable time after the licensee became aware of the conviction or that the individual no longer resides in the licensee's residence;

the criminal conviction of, or determination of child abuse or neglect by, the former employee, former volunteer, or former household resident does not constitute a sufficient basis for the revocation of a license.

(e) The department may adopt rules to implement this section.

As added by P.L.145-2006, SEC.273. Amended by P.L.138-2007, SEC.55; P.L.162-2011, SEC.32.

IC 31-27-4-33

Compliance with rules; disciplinary sanctions; revocation of license

Sec. 33. (a) A licensee shall operate a foster family home in compliance with the rules established under this article and is subject to the disciplinary sanctions under subsection (b) if the department finds that the licensee has violated this article or a rule adopted under this article.

(b) After complying with the procedural provisions in sections 22 through 24 of this chapter, the department may revoke the license when the department finds that a licensee has committed a violation under subsection (a). However, the department shall permanently revoke the license of a licensee who has been convicted of any of the felonies described in section 13(a) of this chapter. The department may permanently revoke the license of a person who has been convicted of a felony that is not described in section 13(a) of this chapter and for other reasons set forth in rules adopted by the department.

As added by P.L.145-2006, SEC.273. Amended by P.L.146-2006, SEC.34; P.L.162-2011, SEC.33; P.L.128-2012, SEC.115.

IC 31-27-4-34
Investigation of unlicensed home reports; enforcement

Sec. 34. (a) The department shall investigate a report of an unlicensed foster family home and report the department's findings to the attorney general and to the local office and the prosecuting attorney in the county where the foster family home is located.

(b) The attorney general or the department may do the following:

(1) Seek the issuance of a search warrant to assist in the investigation.

(2) File an action for injunctive relief.

(3) Seek in a civil action a civil penalty not to exceed one hundred dollars ($100) a day for each day a foster family home is operating without a license required under this article.

(c) The civil penalties collected under this section shall be deposited in the department of child services child care fund established by IC 31-25-2-16.

As added by P.L.145-2006, SEC.273. Amended by P.L.1-2007, SEC.203; P.L.128-2012, SEC.116.

IC 31-27-4-35
Notification of sexual contact or sex crime

Sec. 35. (a) A licensee must immediately contact the department if:

(1) a foster child less than sixteen (16) years of age, while living in a foster home, engages in or is the victim of sexual contact (as defined in IC 25-1-9-3.5);

(2) a foster child, while living in a foster home, is:

(A) charged with or adjudicated as having committed an act that would be a crime under IC 35-42-4 if committed by an adult;

(B) charged with or convicted of an offense under IC 35-42-4; or

(C) the victim of an offense under IC 35-42-4; or

(3) the licensee learns that a foster child has, before placement with the licensee, engaged in or been the victim of an act described in subdivision (1) or (2).

(b) The information provided to the department under subsection (a) must include:

(1) the name of the child;

(2) the date of the occurrence of the act if it can be determined;

(3) a description of the act;

(4) the name of the responding law enforcement agency if a law enforcement agency is contacted; and

(5) any other information the licensee determines is relevant.

(c) Notwithstanding any other law, the department shall provide information described in subsection (b)(1) through (b)(4), whether received from a licensee or another reliable source, to:

(1) a prospective licensee before the placement of the foster child with that licensee; and

(2) each licensee with whom the foster child has previously been placed.

(d) The notification requirements of subsection (c) apply to a foster child who has:

(1) engaged in sexual contact (as defined in IC 25-1-9-3.5) if the foster child is less than sixteen (16) years of age;

(2) been charged with or adjudicated as having committed an act that would be a crime under IC 35-42-4 if committed by an adult; or

(3) been charged with or convicted of an offense under IC 35-42-4.

As added by P.L.145-2006, SEC.273.

IC 31-27-4-36

Violation of chapter

Sec. 36. A person who knowingly or intentionally violates this chapter commits a Class B misdemeanor.

As added by P.L.145-2006, SEC.273.

IC 31-27-5

Chapter 5. Regulation of Group Homes

IC 31-27-5-1

Group home operation; necessity for license; number of children and location of home

Sec. 1. (a) A person may not operate a group home without a license issued under this article.

(b) The state or a political subdivision of the state may not operate a group home without a license issued under this article.

(c) A person may not operate a group home if:

(1) the number of children maintained on the premises at any one (1) time is greater than the number authorized by the license; or

(2) the children are maintained in a building or place not designated by the license.

As added by P.L.145-2006, SEC.273.

IC 31-27-5-2

Conditions for issuance of license

Sec. 2. (a) A license may be issued only if the group home is in substantial compliance with food, health, safety, and sanitation standards as determined under rules adopted by the department under IC 31-27-2-4 or in accordance with a variance or waiver approved by the department under IC 31-27-2-8.

(b) A license may be issued only if the group home is in compliance with the fire and life safety rules as determined by the state fire marshal under rules adopted by the department under IC 31-27-2-4 or in accordance with a variance or waiver approved by the department under IC 31-27-2-8.

(c) The department may issue a waiver or variance regarding a determination by the state fire marshal or the department under subsections (a) and (b).

As added by P.L.145-2006, SEC.273.

IC 31-27-5-3

Group home plat or deed restrictions

Sec. 3. (a) This section applies to:

(1) a restriction;

(2) a reservation;

(3) a condition;

(4) an exception; or

(5) a covenant;

that is created after June 30, 1990, in a subdivision plat, deed, or other instrument of or pertaining to the transfer, sale, lease, or use of property.

(b) This section applies to a group home that houses:

(1) not more than ten (10) children; and

(2) only children who are judicially determined to be either:

(A) children in need of services under IC 31-34-1 (or

IC 31-6-4-3 or IC 31-6-4-3.1 before their repeal); or

(B) children who have committed a delinquent act under IC 31-37-2-2, IC 31-37-2-3, or IC 31-37-2-5 (or IC 31-6-4-1(a)(2), IC 31-6-4-1(a)(3), or IC 31-6-4-1(a)(5) before their repeal).

(c) A restriction, a reservation, a condition, an exception, or a covenant in a subdivision plat, deed, or other instrument of or pertaining to the:

(1) transfer;

(2) sale;

(3) lease; or

(4) use;

of property that would permit the residential use of property but prohibit the use of that property as a group home is, to the extent of the prohibition, void for public policy reasons.

(d) The prohibition described in subsection (c) is void even if the prohibition is based on any of the following grounds:

(1) The group home is a business.

(2) The persons residing in the group home are not related.

(3) Any other reason.

As added by P.L.145-2006, SEC.273.

IC 31-27-5-4

Apply for licenses; criminal history checks

Sec. 4. (a) An applicant must apply for a group home license on forms provided by the department.

(b) An applicant must submit the required information as part of the application.

(c) An applicant must submit with the application a statement attesting the following:

(1) Whether the applicant has been convicted of:

(A) a felony; or

(B) a misdemeanor relating to the health and safety of children.

(2) Whether the applicant has been charged with:

(A) a felony; or

(B) a misdemeanor relating to the health and safety of children;

during the pendency of the application.

(d) The department on behalf of an applicant, or, at the discretion of the department, an applicant, shall conduct a criminal history check of the following:

(1) Each individual who is an applicant.

(2) The director or manager of a facility where children will be placed.

(3) An employee or a volunteer of the applicant who has or will have direct contact on a regular and continuing basis with a child who is or will be placed in a facility operated by the applicant.

(e) If the applicant conducts a criminal history check under

subsection (d), the applicant shall:

(1) maintain records of the information it receives concerning each individual who is the subject of a criminal history check; and

(2) submit to the department a copy of the information the applicant receives concerning each person described in subsection (d)(1) through (d)(3).

(f) If the department conducts a criminal history check on behalf of an applicant under subsection (d), the department shall:

(1) determine whether the subject of a national fingerprint based criminal history check has a record of a:

(A) conviction for a felony;

(B) conviction for a misdemeanor relating to the health and safety of a child; or

(C) juvenile adjudication for an act listed in IC 31-27-4-13(a) that, if committed by an adult, would be a felony;

(2) notify the applicant of the determination under subdivision (1) without identifying a specific offense or other identifying information concerning a conviction or juvenile adjudication contained in the national criminal history record information;

(3) submit to the applicant a copy of any state limited criminal history report that the department receives on behalf of any person described in subsection (d); and

(4) maintain a record of every report and all information it receives concerning a person described in subsection (d).

(g) Except as provided in subsection (h), a criminal history check described in subsection (d) is required only at the time an application for a new license or the renewal of an existing license is submitted.

(h) A criminal history check of a person described in subsection (d)(2) or (d)(3) must be completed on or before the date on which the subject of the check is employed or assigned as a volunteer or has direct contact on a regular and continuing basis with a child who is or will be placed in a facility operated by an applicant.

(i) The applicant is responsible for any fees associated with a criminal history check.

(j) The department shall, at the applicant's request, inform the applicant as to whether the department has or does not have a record of the person who is the subject of a criminal history check and whether the department has identified the person as an alleged perpetrator of abuse or neglect. The department may not provide to the applicant any details or personally identifying information contained in any child protective services investigation report.

(k) A person who is the subject of a criminal history check conducted in accordance with this section may request the state police department to provide the person with a copy of any state or national criminal history report concerning the person.

As added by P.L.145-2006, SEC.273. Amended by P.L.138-2007, SEC.56; P.L.162-2011, SEC.34; P.L.128-2012, SEC.117.

IC 31-27-5-5

Establishment of county group home; operation

Sec. 5. (a) A county may establish a child group home. The group home may be operated by:

(1) the county; or

(2) a public or private agency under contract with the county;

and must be operated under the rules adopted by the director under this article.

(b) This section does not affect the following:

(1) IC 31-31-1-1 or IC 31-40, requiring the county fiscal body to appropriate sufficient money to pay for services ordered by the juvenile court.

(2) IC 31-31-8, authorizing the juvenile court to establish detention and shelter care facilities.

(3) IC 12-13-5 and IC 12-19-1, requiring the department and the county office to provide care and treatment for delinquent children and children in need of services.

As added by P.L.145-2006, SEC.273.

IC 31-27-5-6

Grounds for denial of license applications; waiver

Sec. 6. (a) The following constitute sufficient grounds for a denial of a license application:

(1) A determination by the department of child abuse or neglect by:

(A) the applicant; or

(B) an employee or a volunteer of the applicant who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant.

(2) A criminal conviction of the applicant, or the director or manager of a facility where children will be placed by the applicant, for any of the following:

(A) A felony.

(B) A misdemeanor related to the health and safety of a child.

(C) A misdemeanor for operating a child caring institution, foster family home, group home, or child placing agency without a license under this article (or IC 12-17.4 before its repeal).

(D) A misdemeanor for operating a child care center or child care home without a license under IC 12-17.2.

(3) A determination by the department that the applicant made false statements in the applicant's application for licensure.

(4) A determination by the department that the applicant made false statements in the records required by the department.

(5) A determination by the department that:

(A) the applicant; or

(B) an employee or a volunteer of the applicant who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the

applicant;

previously operated a home or facility without a license required under any applicable provision of this article (or IC 12-17.4 before its repeal) or IC 12-17.2.

(6) A juvenile adjudication of the applicant for an act listed in IC 31-27-4-13(a) that, if committed by an adult, would be a felony.

(b) An application for a license may also be denied if an employee or volunteer of the applicant who has direct contact on a regular and continuous basis with children who are under the direct supervision of the applicant has had any of the following:

(1) A conviction of a felony described in IC 31-27-4-13(a).

(2) A conviction of any other felony or a misdemeanor relating to the health and safety of a child, unless the applicant is granted a waiver by the department to employ or assign the person as a volunteer in a position described in this subsection.

(3) A juvenile adjudication for an act listed in IC 31-27-4-13(a) that, if committed by an adult, would be a felony, unless the applicant is granted a waiver by the department to employ or assign the person as a volunteer in a position described in this subsection.

(c) In determining whether to grant a waiver under subsection (b), the department shall consider the following factors:

(1) The length of time that has passed since the disqualifying conviction.

(2) The severity, nature, and circumstances of the offense.

(3) Evidence of rehabilitation.

(4) The duties and qualifications required for the proposed employment positions or volunteer assignment.

(d) Notwithstanding subsection (a) or (b), if:

(1) a license application could be denied due to a criminal conviction of, or a determination of child abuse or neglect by, an employee or a volunteer of the applicant; and

(2) the department determines that the employee or volunteer has been dismissed before the employee or volunteer has direct contact on a regular and continuing basis with a child who is or will be placed in a facility by the applicant;

the criminal conviction of, or determination of child abuse or neglect by, the former employee or former volunteer does not constitute a sufficient basis for the denial of a license application.

(e) The department may adopt rules to implement this section.

As added by P.L.145-2006, SEC.273. Amended by P.L.138-2007, SEC.57; P.L.162-2011, SEC.35; P.L.128-2012, SEC.118.

IC 31-27-5-7

Incomplete applications

Sec. 7. The department may not act on an incomplete application. The department shall return an incomplete application with a notation concerning omissions. The return of an incomplete application is without prejudice.

As added by P.L.145-2006, SEC.273.

IC 31-27-5-8
Investigation of applicants

Sec. 8. The department shall investigate a person seeking licensure to determine whether the person is in compliance with this article and the rules adopted under this article. The investigation shall be conducted at a reasonable time and in a reasonable manner in announced or unannounced visits. Activities may include onsite inspections, record reading, observation, and interviewing. The department may require that evidence of compliance with the rules be presented in a form and manner specified in the rules.
As added by P.L.145-2006, SEC.273.

IC 31-27-5-9
Issuance of license

Sec. 9. The department shall issue a license to a person who meets all of the license requirements when an investigation shows the applicant to be in compliance under this article.
As added by P.L.145-2006, SEC.273.

IC 31-27-5-10
Eligibility of waivers and variances

Sec. 10. A group home may be eligible to receive a waiver or variance from the requirements of this chapter by complying with IC 31-27-2-8.
As added by P.L.145-2006, SEC.273.

IC 31-27-5-11
Waiver of maximum group home stay

Sec. 11. (a) The department may grant a waiver of the twenty (20) day maximum stay for a child if the group home licensed as a shelter care facility applies for the waiver before the expiration of the twenty (20) day period.

(b) The group home shall document in the request for a waiver that the waiver is in the best interest of the child.
As added by P.L.145-2006, SEC.273. Amended by P.L.48-2012, SEC.32.

IC 31-27-5-12
Denial of license

Sec. 12. (a) The department shall deny a license when an applicant fails to meet the requirements for a license.

(b) The department shall send the applicant written notice by certified mail that the application has been denied and give the reasons for the denial.

(c) An administrative hearing concerning the denial of a license shall be provided upon written request by the applicant. The request must be made not more than thirty (30) days after the applicant receives the written notice under subsection (b).

(d) An administrative hearing shall be held in accordance with IC 4-21.5-3.
As added by P.L.145-2006, SEC.273. Amended by P.L.128-2012, SEC.119.

IC 31-27-5-13
Investigation of unlicensed premises
Sec. 13. The department shall investigate any premises that the department has reason to believe are being used for child care without a license in circumstances where a license is required.
As added by P.L.145-2006, SEC.273.

IC 31-27-5-14
Duration of license; limitations; renewal; public display
Sec. 14. (a) A license for a group home expires four (4) years after the date of issuance, unless the license is revoked or voluntarily returned.
(b) A license issued under this chapter:
(1) is not transferable;
(2) applies only to the licensee and the location stated in the application; and
(3) remains the property of the department.
(c) A current license shall be publicly displayed.
(d) If a licensee submits a timely application for renewal, the current license remains in effect until the department issues a license or denies the application.
As added by P.L.145-2006, SEC.273. Amended by P.L.146-2006, SEC.35; P.L.128-2012, SEC.120.

IC 31-27-5-15
Probationary status; duration; expiration; extension
Sec. 15. (a) The department may place a licensee on probationary status if the licensee is temporarily unable to comply with a rule and if:
(1) the noncompliance does not present an immediate threat to the health and well-being of the children in the care of the licensee;
(2) the licensee files a plan with the department, the state department of health, or the state fire marshal to correct the areas of noncompliance within the probationary period; and
(3) the department, the state department of health, or the state fire marshal approves the plan.
(b) A probationary status period is for not more than six (6) months. However, the department may extend a probationary status period for one (1) additional period of six (6) months.
(c) At the expiration of a probationary status period, the department shall:
(1) reactivate the license to the end of the original term of the license;
(2) extend the probationary status period as permitted in

subsection (b); or

(3) revoke the license.

As added by P.L.145-2006, SEC.273. Amended by P.L.146-2006, SEC.36.

IC 31-27-5-16

Inspections

Sec. 16. The department and the state fire marshal shall do the following:

(1) Make annual onsite inspections.

(2) Keep written records of the monitoring activities and inspections.

As added by P.L.145-2006, SEC.273.

IC 31-27-5-17

Cooperation by licensees

Sec. 17. A licensee shall cooperate with the department, the state fire marshal, and any other state agency working on behalf of the department in carrying out the activities required by section 16 of this chapter, including permitting the department, the state fire marshal, or any other state agency working on behalf of the department to conduct announced or unannounced inspections.

As added by P.L.145-2006, SEC.273. Amended by P.L.128-2012, SEC.121.

IC 31-27-5-18

Records

Sec. 18. (a) A licensee shall keep records required by the department regarding each child in the control and care of the licensee and shall report to the department, upon request, the facts the department requires with reference to children.

(b) The department shall keep records regarding children and facts learned about children and the children's relatives confidential.

(c) The following have access to records regarding children and facts learned about children:

(1) A state agency involved in the licensing of the group home.

(2) A legally mandated child protection agency.

(3) A law enforcement agency.

(4) An agency having the legal responsibility to care for a child placed at the group home.

(5) The parent, guardian, or custodian of the child at the group home.

(6) A citizen review panel established under IC 31-25-2-20.4.

(7) The department of child services ombudsman established by IC 4-13-19-3.

As added by P.L.145-2006, SEC.273. Amended by P.L.138-2007, SEC.58; P.L.182-2009(ss), SEC.376; P.L.123-2014, SEC.17.

IC 31-27-5-19

Notice of enforcement actions; informal meetings

Sec. 19. Except as provided in section 29 of this chapter, the department shall give a licensee thirty (30) days written notice by certified mail of an enforcement action. The licensee shall also be provided with the opportunity for an informal meeting with the department. The licensee must request the meeting not more than ten (10) working days after receipt of the certified notice.
As added by P.L.145-2006, SEC.273.

IC 31-27-5-20
Administrative hearings
Sec. 20. An administrative hearing concerning the decision of the department to impose a sanction under this chapter shall be provided upon a written request by the licensee. The request must be made not more than thirty (30) days after the licensee receives notice under section 19 of this chapter. The written request must be made separately from an informal meeting request made under section 19 of this chapter.
As added by P.L.145-2006, SEC.273. Amended by P.L.128-2012, SEC.122.

IC 31-27-5-21
Procedure for administrative hearings
Sec. 21. A hearing requested under section 20 of this chapter shall be held under IC 4-21.5-3.
As added by P.L.145-2006, SEC.273.

IC 31-27-5-22
Repealed
(Repealed by P.L.128-2012, SEC.123.)

IC 31-27-5-23
Repealed
(Repealed by P.L.146-2006, SEC.60.)

IC 31-27-5-24
Repealed
(Repealed by P.L.146-2006, SEC.60.)

IC 31-27-5-25
Repealed
(Repealed by P.L.146-2006, SEC.60.)

IC 31-27-5-26
Cessation of operation upon revocation of license
Sec. 26. A group home shall cease operation when the license of the group home is revoked.
As added by P.L.145-2006, SEC.273.

IC 31-27-5-27
Notice

Sec. 27. (a) After the license of a group home is revoked, the department shall notify in writing each person responsible for each child in care to ensure that the children are removed from the group home.

(b) The written notice shall be sent to the last known address of the person responsible for the child in care and shall state that the license of the group home has been revoked.

As added by P.L.145-2006, SEC.273. Amended by P.L.146-2006, SEC.37.

IC 31-27-5-28
Repealed

(Repealed by P.L.128-2012, SEC.124.)

IC 31-27-5-29
Investigation of noncompliance; injunctions; corrective action plans; removal of children; informal meetings

Sec. 29. (a) The department shall investigate a report of a licensed group home's noncompliance with this article and the rules adopted under this article. If there is reasonable cause to believe that noncompliance with this article and rules adopted under this article creates an imminent danger of serious bodily injury to a child or an imminent danger to the health of a child, the department shall report its findings to the attorney general and to the local office and the prosecuting attorney in the county where the group home is located.

(b) The attorney general or the department may do the following:

(1) Seek the issuance of a search warrant to assist in the investigation.

(2) File an action for injunctive relief to stop the operation of a group home if there is reasonable cause to believe that the group home's noncompliance with this article and the rules adopted under this article creates an imminent danger of serious bodily injury to a child or an imminent danger to the health of a child.

(c) The department may require a plan of corrective action for emergency protection of children described in subsection (b).

(d) The department may provide for the removal of children from a group home described in subsection (b).

(e) An opportunity for an informal meeting with the department shall be available after injunctive relief is ordered under subsection (b)(2).

As added by P.L.145-2006, SEC.273. Amended by P.L.128-2012, SEC.125.

IC 31-27-5-30
Expiration of injunctions for noncompliance

Sec. 30. A court order granted under section 29(b)(2) of this chapter expires upon the later of the following:

(1) Sixty (60) days after the order is issued.

(2) When a final departmental decision is issued under sections 20 through 21 of this chapter if notice of an enforcement action

is issued under section 19 of this chapter.

As added by P.L.145-2006, SEC.273. Amended by P.L.128-2012, SEC.126.

IC 31-27-5-31

Grounds for revocation of licenses; waiver

Sec. 31. (a) The following constitute sufficient grounds for revocation of a license:

(1) A determination by the department of child abuse or neglect by:

(A) the licensee; or

(B) an employee or a volunteer of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee.

(2) A criminal conviction of the licensee, or the director or manager of a facility where children will be placed by the licensee, for any of the following:

(A) A felony.

(B) A misdemeanor related to the health or safety of a child.

(C) A misdemeanor for operating a child caring institution, foster family home, group home, or child placing agency without a license under this article (or IC 12-17.4 before its repeal).

(D) A misdemeanor for operating a child care center or child care home without a license under IC 12-17.2.

(3) A determination by the department that the licensee made false statements in the licensee's application for licensure.

(4) A determination by the department that the licensee made false statements in the records required by the department.

(5) A determination by the department that:

(A) the licensee; or

(B) an employee or volunteer of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee;

previously operated a home or facility without a license required under any applicable provision of this article (or IC 12-17.4 before its repeal) or IC 12-17.2.

(6) A juvenile adjudication of the licensee for an act listed in IC 31-27-4-13(a) that, if committed by an adult, would be a felony.

(b) A license may also be revoked if an employee or volunteer of the licensee who has direct contact on a regular and continuous basis with children who are under the direct supervision of the licensee has had any of the following:

(1) A conviction of a felony described in IC 31-27-4-13(a).

(2) A conviction of any other felony or a misdemeanor relating to the health and safety of a child, unless the licensee is granted a waiver by the department to employ or assign the person as a volunteer in a position described in this subsection.

(3) A juvenile adjudication for an act listed in IC 31-27-4-13(a)

that, if committed by an adult, would be a felony, unless the licensee is granted a waiver by the department to employ or assign the person as a volunteer in a position described in this subsection.

(c) In determining whether to grant a waiver under subsection (b), the department shall consider the following factors:

(1) The length of time that has passed since the disqualifying conviction.

(2) The severity, nature, and circumstances of the offense.

(3) Evidence of rehabilitation.

(4) The duties and qualifications required for the proposed employment positions or volunteer assignment.

(d) Notwithstanding subsection (a) or (b), if:

(1) a license could be revoked due to a criminal conviction of, or a determination of child abuse or neglect by, an employee or a volunteer of the licensee; and

(2) the department determines that the employee or volunteer has been dismissed by the licensee within a reasonable time after the licensee became aware of the conviction;

the criminal conviction of, or determination of child abuse or neglect by, the former employee or former volunteer does not constitute a sufficient basis for the revocation of a license.

(e) The department may adopt rules to implement this section.

As added by P.L.145-2006, SEC.273. Amended by P.L.138-2007, SEC.59; P.L.162-2011, SEC.36.

IC 31-27-5-32

Compliance with rules; disciplinary sanctions; revocation of license

Sec. 32. (a) A licensee shall operate a group home in compliance with the rules established under this article and is subject to the disciplinary sanctions under subsection (b) if the department finds that the licensee has violated this article or a rule adopted under this article.

(b) After complying with the procedural provisions in sections 19 through 21 of this chapter, the department may revoke the license when the department finds that a licensee has committed a violation under subsection (a).

As added by P.L.145-2006, SEC.273. Amended by P.L.146-2006, SEC.38; P.L.128-2012, SEC.127.

IC 31-27-5-33

Investigation of unlicensed group homes; injunctions; civil penalties

Sec. 33. (a) The department shall investigate a report of an unlicensed group home and report the department's findings to the attorney general and to the local office and the prosecuting attorney in the county where the group home is located.

(b) The attorney general or the department may do the following:

(1) Seek the issuance of a search warrant to assist in the investigation.

(2) File an action for injunctive relief to stop the operation of a group home if there is reasonable cause to believe that the group home is operating without a license required under this article.
(3) Seek in a civil action a civil penalty not to exceed one hundred dollars ($100) a day for each day a group home is operating without a license required under this article.

(c) An opportunity for an informal meeting with the department shall be available after injunctive relief is ordered under subsection (b)(2).

(d) The civil penalties collected under this section shall be deposited in the department of child services child care fund established by IC 31-25-2-16.

As added by P.L.145-2006, SEC.273. Amended by P.L.1-2007, SEC.204; P.L.128-2012, SEC.128.

IC 31-27-5-34

Expiration of injunctions for unlicensed operation

Sec. 34. A court order granted under section 33(b)(2) of this chapter expires when the group home is issued a license.

As added by P.L.145-2006, SEC.273.

IC 31-27-5-35

Violations of chapter

Sec. 35. A person who knowingly or intentionally violates this chapter commits a Class B misdemeanor.

As added by P.L.145-2006, SEC.273.

IC 31-27-6

Chapter 6. Regulation of Child Placing Agencies

IC 31-27-6-1

Operation of a child placing agency

Sec. 1. (a) A person may not operate a child placing agency without a license issued under this article.

(b) The state or a political subdivision of the state may not operate a child placing agency without a license issued under this chapter.

(c) A child placing agency may not operate a foster family home if:

(1) the number of children maintained on the premises at any one (1) time is greater than the number authorized by the license; or

(2) the children are maintained in a building or place not designated by the license.

As added by P.L.145-2006, SEC.273.

IC 31-27-6-2

Apply for licenses; criminal history checks

Sec. 2. (a) An applicant must apply for a child placing agency license on forms provided by the department.

(b) An applicant must submit the required information as part of the application.

(c) The applicant must submit with the application a statement attesting the following:

(1) Whether the applicant has been convicted of:

(A) a felony; or

(B) a misdemeanor relating to the health and safety of children.

(2) Whether the applicant has been charged with:

(A) a felony; or

(B) a misdemeanor relating to the health and safety of children;

during the pendency of the application.

(d) The department on behalf of an applicant, or, at the discretion of the department, an applicant, shall conduct a criminal history check of the following:

(1) Each individual who is an applicant.

(2) The director or manager of a facility where children will be placed.

(3) An employee or a volunteer of the applicant who has or will have direct contact on a regular and continuing basis with a child who is or will be placed in a facility operated by the applicant.

(e) If the applicant conducts a criminal history check under subsection (d), the applicant shall:

(1) maintain records of the information it receives concerning each individual who is the subject of a criminal history check; and

(2) submit to the department a copy of the information it receives concerning each person described in subsection (d)(1) through (d)(3).

(f) If the department conducts a criminal history check on behalf of an applicant under subsection (d), the department shall:

(1) determine whether the subject of a national fingerprint based criminal history check has a record of a:

(A) conviction for a felony;

(B) conviction for a misdemeanor relating to the health and safety of a child; or

(C) juvenile adjudication for an act listed in IC 31-27-4-13(a) that, if committed by an adult, would be a felony;

(2) notify the applicant of the determination under subdivision (1) without identifying a specific offense or other identifying information concerning a conviction or juvenile adjudication contained in the national criminal history record information;

(3) submit to the applicant a copy of any state limited criminal history report that the department receives on behalf of any person described in subsection (d); and

(4) maintain a record of every report and all information the department receives concerning a person described in subsection (d).

(g) Except as provided in subsection (h), a criminal history check described in subsection (d) is required only at the time an application for a new license or the renewal of an existing license is submitted.

(h) A criminal history check of a person described in subsection (d)(2) or (d)(3) must be completed on or before the date on which the subject of the check is employed or assigned as a volunteer, or has direct contact on a regular and continuing basis with a child who is or will be placed in a facility operated by an applicant.

(i) The applicant or facility is responsible for any fees associated with a criminal history check.

(j) The department shall, at the applicant's request, inform the applicant whether the department has or does not have a record of the person who is the subject of a criminal history check and if the department has identified the person as an alleged perpetrator of abuse or neglect. The department may not provide to the applicant any details or personally identifying information contained in any child protective investigation report.

(k) A person who is the subject of a criminal history check conducted in accordance with this section may request the state police department to provide the person with a copy of any state or national criminal history report concerning the person.

As added by P.L.145-2006, SEC.273. Amended by P.L.138-2007, SEC.60; P.L.162-2011, SEC.37; P.L.128-2012, SEC.129.

IC 31-27-6-3

Grounds for denial of license applications; waiver

Sec. 3. (a) The following constitute sufficient grounds for denial of a license application:

(1) A determination by the department of child abuse or neglect by:

(A) the applicant; or

(B) an employee or a volunteer of the applicant who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant.

(2) A criminal conviction of the applicant, or the director or manager of a facility where children will be placed by the licensee, for any of the following:

(A) A felony.

(B) A misdemeanor related to the health and safety of a child.

(C) A misdemeanor for operating a child caring institution, foster family home, group home, or child placing agency without a license under this article (or IC 12-17.4 before its repeal).

(D) A misdemeanor for operating a child care center or child care home without a license under IC 12-17.2.

(3) A determination by the department that the applicant made false statements in the applicant's application for licensure.

(4) A determination by the department that the applicant made false statements in the records required by the department.

(5) A determination by the department that:

(A) the applicant; or

(B) an employee or a volunteer of the applicant who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant;

previously operated a home or facility without a license required under any applicable provision of this article (or IC 12-17.4 before its repeal) or IC 12-17.2.

(6) A juvenile adjudication of the applicant for an act listed in IC 31-27-4-13(a) that, if committed by an adult, would be a felony.

(b) An application for a license may also be denied if an employee or volunteer of the applicant who has direct contact on a regular and continuous basis with children who are under the direct supervision of the applicant has had any of the following:

(1) A conviction of a felony described in IC 31-27-4-13(a).

(2) A conviction of any other felony or a misdemeanor relating to the health and safety of a child, unless the applicant is granted a waiver by the department to employ or assign the person as a volunteer in a position described in this subsection.

(3) A juvenile adjudication for an act listed in IC 31-27-4-13(a) that, if committed by an adult, would be a felony, unless the applicant is granted a waiver by the department to employ or assign the person as a volunteer in a position described in this subsection.

(c) In determining whether to grant a waiver under subsection (b),

the department shall consider the following factors:

(1) The length of time that has passed since the disqualifying conviction.

(2) The severity, nature, and circumstances of the offense.

(3) Evidence of rehabilitation.

(4) The duties and qualifications required for the proposed employment positions or volunteer assignment.

(d) Notwithstanding subsection (a) or (b), if:

(1) a license application could be denied due to a criminal conviction of, or a determination of child abuse or neglect by, an employee or a volunteer of the applicant; and

(2) the department determines that the employee or volunteer has been dismissed before the employee or volunteer has direct contact on a regular and continuing basis with a child who is or will be placed in a facility operated by the applicant;

the criminal conviction of, or determination of child abuse or neglect by, the former employee or former volunteer does not constitute a sufficient basis for the denial of a license application.

(e) The department may adopt rules to implement this section.

As added by P.L.145-2006, SEC.273. Amended by P.L.138-2007, SEC.61; P.L.162-2011, SEC.38; P.L.128-2012, SEC.130.

IC 31-27-6-4

Incomplete applications

Sec. 4. The department may not act on an incomplete application. The department shall return an incomplete application with a notation concerning omissions. The return of an incomplete application is without prejudice.

As added by P.L.145-2006, SEC.273.

IC 31-27-6-5

Investigation of applicants

Sec. 5. The department shall investigate a person seeking licensure to determine whether the person is in compliance with this article and the rules adopted under this article. The investigation shall be conducted at a reasonable time and in a reasonable manner in announced or unannounced visits. Activities may include onsite inspections, record reading, observation, and interviewing. The department may require that evidence of compliance with the rules adopted under this article be presented in a form and manner specified in the rules.

As added by P.L.145-2006, SEC.273.

IC 31-27-6-6

Issuance of license

Sec. 6. The department shall issue a license to a person who meets all of the license requirements when an investigation shows the applicant to be in compliance under this article.

As added by P.L.145-2006, SEC.273.

IC 31-27-6-7
Eligibility for waivers and variances

Sec. 7. A child placing agency may be eligible to receive a waiver or variance from the requirements of this chapter by complying with IC 31-27-2-8.

As added by P.L.145-2006, SEC.273.

IC 31-27-6-8
Denial of license

Sec. 8. (a) The department shall deny a license when an applicant fails to meet the requirements for a license.

(b) If the department denies an applicant a license under subsection (a), the department shall send the applicant written notice by certified mail that the application has been denied and give the reasons for the denial.

(c) An administrative hearing concerning the denial of a license shall be provided upon written request by the applicant. The request must be made not more than thirty (30) days after the applicant receives the written notice under subsection (b).

(d) An administrative hearing shall be held in accordance with IC 4-21.5-3.

As added by P.L.145-2006, SEC.273. Amended by P.L.128-2012, SEC.131.

IC 31-27-6-9
Investigation of unlicensed premises

Sec. 9. The department is responsible for investigating any premises that the department has reason to believe are being used for child care without a license in circumstances where a license is required.

As added by P.L.145-2006, SEC.273.

IC 31-27-6-10
Duration of license; limitations; renewal

Sec. 10. (a) A license for a child placing agency expires four (4) years after the date of issuance, unless the license is revoked or voluntarily returned.

(b) A license issued under this chapter:

(1) is not transferable;

(2) applies only to the licensee and the location stated in the application; and

(3) remains the property of the department.

(c) A child placing agency shall have the child placing agency's license available for inspection.

(d) If a licensee submits a timely application for renewal, the current license shall remain in effect until the department issues a license or denies the application.

As added by P.L.145-2006, SEC.273. Amended by P.L.146-2006, SEC.39; P.L.128-2012, SEC.132.

IC 31-27-6-11
Probationary status; duration; expiration; extension

Sec. 11. (a) The department may place a licensee on probationary status if the licensee is temporarily unable to comply with a rule and if:

(1) the noncompliance does not present an immediate threat to the health and well-being of the children in the care of the licensee;
(2) the licensee files a plan with the department to correct the areas of noncompliance within the probationary period; and
(3) the department approves the plan.

(b) A probationary status period is for not more than six (6) months. However, the department may extend a probationary status period for one (1) additional period of six (6) months.

(c) At the expiration of a probationary status period, the department shall:

(1) reactivate the license to the end of the original term of the license;
(2) extend the probationary status period as permitted in subsection (b); or
(3) revoke the original license.

As added by P.L.145-2006, SEC.273. Amended by P.L.146-2006, SEC.40.

IC 31-27-6-12
Inspections of agencies

Sec. 12. The department may conduct an inspection of a child placing agency for the sole purpose of inquiry into matters as stated in the rules, including those directly affecting the health, safety, treatment, and general well-being of the children protected under this article.

As added by P.L.145-2006, SEC.273.

IC 31-27-6-13
Records of monitoring activities and inspections

Sec. 13. The department shall keep written records of the department's monitoring activities and onsite inspections.

As added by P.L.145-2006, SEC.273.

IC 31-27-6-14
Cooperation by licensees

Sec. 14. The licensee shall cooperate with the department and any other state agency working on behalf of the department in carrying out the activities required by sections 12 through 13 of this chapter, including permitting the department to conduct announced or unannounced inspections.

As added by P.L.145-2006, SEC.273. Amended by P.L.128-2012, SEC.133.

IC 31-27-6-15

Records regarding children

Sec. 15. (a) A licensee shall keep records required by the department regarding each child in the control and care of the licensee and shall report to the department upon request the facts the department requires with reference to children.

(b) The department shall keep records regarding children and facts learned about children and the children's relatives confidential.

(c) The following have access to records regarding children and facts learned about children:

(1) A state agency involved in the licensing of the child placing agency.

(2) A legally mandated child protection agency.

(3) A law enforcement agency.

(4) A citizen review panel established under IC 31-25-2-20.4.

(5) The department of child services ombudsman established by IC 4-13-19-3.

As added by P.L.145-2006, SEC.273. Amended by P.L.138-2007, SEC.62; P.L.182-2009(ss), SEC.377; P.L.123-2014, SEC.18.

IC 31-27-6-16

Notice of enforcement actions

Sec. 16. The department shall give a licensee thirty (30) days written notice by certified mail of an enforcement action. The licensee shall also be provided with the opportunity for an informal meeting with the department. The licensee must request the meeting not more than ten (10) working days after receipt of the certified notice.

As added by P.L.145-2006, SEC.273.

IC 31-27-6-17

Administrative hearings

Sec. 17. An administrative hearing concerning the decision of the department to impose a sanction under this chapter shall be provided upon a written request by the licensee. The request must be made not more than thirty (30) days after the licensee receives notice under section 16 of this chapter. The written request must be made separately from an informal meeting request made under section 16 of this chapter.

As added by P.L.145-2006, SEC.273. Amended by P.L.128-2012, SEC.134.

IC 31-27-6-18

Procedure for administrative hearings

Sec. 18. A hearing requested under section 17 of this chapter shall be held in accordance with IC 4-21.5-3.

As added by P.L.145-2006, SEC.273.

IC 31-27-6-19

Repealed

(Repealed by P.L.128-2012, SEC.135.)

IC 31-27-6-20
Repealed
(Repealed by P.L.146-2006, SEC.60.)

IC 31-27-6-21
Repealed
(Repealed by P.L.146-2006, SEC.60.)

IC 31-27-6-22
Repealed
(Repealed by P.L.146-2006, SEC.60.)

IC 31-27-6-23
Cessation of operation upon revocation of license
Sec. 23. A child placing agency shall cease operation when the license of the child placing agency is revoked.
As added by P.L.145-2006, SEC.273.

IC 31-27-6-24
Notice
Sec. 24. (a) After the license of a child placing agency is revoked, the department shall notify in writing each person responsible for each child in care to ensure that the children are removed from the child placing agency.
(b) The written notice shall be sent to the last known address of the person responsible for the child in care and must state that the license of the child placing agency has been revoked.
As added by P.L.145-2006, SEC.273. Amended by P.L.146-2006, SEC.41.

IC 31-27-6-25
Repealed
(Repealed by P.L.128-2012, SEC.136.)

IC 31-27-6-26
Investigation of noncompliance; injunctions; corrective action plans; informal meetings
Sec. 26. (a) The department shall investigate a report of a licensed child placing agency's noncompliance with this article and the rules adopted under this article. If there is reasonable cause to believe that a licensee's noncompliance with this article and rules adopted under this article creates an imminent danger of serious bodily injury to a child or an imminent danger to the health of a child, the department shall report the department's findings to the attorney general and to the local office and the prosecuting attorney in the county where the child placing agency is located.
(b) The attorney general or the department may do the following:
(1) Seek the issuance of a search warrant to assist in the investigation.

(2) File an action for injunctive relief to stop the operation of a child placing agency if there is reasonable cause to believe that a licensee's noncompliance with this article and the rules adopted under this article creates an imminent danger of serious bodily injury to a child or an imminent danger to the health of a child.

(c) The department may require a plan of corrective action, including a hold on new placements, for emergency protection of the children described in subsection (b).

(d) An opportunity for an informal meeting with the department shall be available after injunctive relief is ordered under subsection (b)(2).

As added by P.L.145-2006, SEC.273. Amended by P.L.128-2012, SEC.137.

IC 31-27-6-27

Expiration of injunctions for noncompliance

Sec. 27. A court order granted under section 26(b)(2) of this chapter expires upon the later of the following:

(1) Sixty (60) days after the order is issued.

(2) When a final department decision is issued under sections 16 through 18 of this chapter if notice of an enforcement action is issued under section 16 of this chapter.

As added by P.L.145-2006, SEC.273. Amended by P.L.128-2012, SEC.138.

IC 31-27-6-28

Grounds for revocation of licenses; waiver

Sec. 28. (a) The following constitute sufficient grounds for revocation of a license:

(1) A determination by the department of child abuse or neglect (as defined in IC 31-9-2-14) by:

(A) the licensee; or

(B) an employee or a volunteer of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee.

(2) A criminal conviction of the licensee, or the director or manager of a facility where children will be placed by the licensee, for any of the following:

(A) A felony.

(B) A misdemeanor related to the health or safety of a child.

(C) A misdemeanor for operating a child caring institution, foster family home, group home, or child placing agency without a license under this article (or IC 12-17.4 before its repeal).

(D) A misdemeanor for operating a child care center or child care home without a license under IC 12-17.2.

(3) A determination by the department that the licensee made false statements in the licensee's application for licensure.

(4) A determination by the department that the licensee made

false statements in the records required by the department.

(5) A determination by the department that:

(A) the licensee; or

(B) an employee or a volunteer of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee;

previously operated a home or facility without a license required under any applicable provision of this article (or IC 12-17.4 before its repeal) or IC 12-17.2.

(6) A juvenile adjudication of a licensee for an act listed in IC 31-27-4-13(a) that, if committed by an adult, would be a felony.

(b) A license may also be revoked if an employee or volunteer of the licensee who has direct contact on a regular and continuous basis with children who are under the direct supervision of the licensee has had any of the following:

(1) A conviction of a felony described in IC 31-27-4-13(a).

(2) A conviction of any other felony or a misdemeanor relating to the health and safety of a child, unless the licensee is granted a waiver by the department to employ or assign the person as a volunteer in a position described in this subsection.

(3) A juvenile adjudication for an act listed in IC 31-27-4-13(a) that, if committed by an adult, would be a felony, unless the licensee is granted a waiver by the department to employ or assign the person as a volunteer in a position described in this subsection.

(c) In determining whether to grant a waiver under subsection (b), the department shall consider the following factors:

(1) The length of time that has passed since the disqualifying conviction.

(2) The severity, nature, and circumstances of the offense.

(3) Evidence of rehabilitation.

(4) The duties and qualifications required for the proposed employment positions or volunteer assignment.

(d) Notwithstanding subsection (a) or (b), if:

(1) a license could be revoked due to a criminal conviction of, or a determination of child abuse or neglect by, an employee or a volunteer of the licensee; and

(2) the department determines that the employee or volunteer has been dismissed by the licensee within a reasonable time after the licensee became aware of the conviction or determination;

the criminal conviction of, or determination of child abuse or neglect by, the former employee or former volunteer does not constitute a sufficient basis for the revocation of a license.

(e) The department may adopt rules to implement this section.

As added by P.L.145-2006, SEC.273. Amended by P.L.138-2007, SEC.63; P.L.162-2011, SEC.39.

IC 31-27-6-29

Compliance with rules; disciplinary sanctions; revocation of license

Sec. 29. (a) A licensee shall operate a child placing agency in compliance with the rules established under this article and is subject to the disciplinary sanctions under subsection (b) if the department finds that the licensee has violated this article or a rule adopted under this article.

(b) After complying with the procedural provisions in sections 16 through 18 of this chapter, the department may revoke the license when the department finds that a licensee has committed a violation under subsection (a).

As added by P.L.145-2006, SEC.273. Amended by P.L.146-2006, SEC.42; P.L.128-2012, SEC.139.

IC 31-27-6-30

Investigation of unlicensed operation; injunctions; civil penalties

Sec. 30. (a) The department shall investigate a report of an unlicensed child placing agency and report the department's findings to the attorney general and to the local office and the prosecuting attorney in the county where the child placing agency is located.

(b) The attorney general or the department may do the following:

(1) Seek the issuance of a search warrant to assist in the investigation.

(2) File an action for injunctive relief to stop the operation of a child placing agency if there is reasonable cause to believe that the child placing agency is operating without a license required under this article.

(3) Seek in a civil action a civil penalty not to exceed one hundred dollars ($100) a day for each day a child placing agency is operating without a license required under this article.

(c) An opportunity for an informal meeting with the department shall be available after injunctive relief is ordered under subsection (b)(2).

(d) The civil penalties collected under this section shall be deposited in the department of child services child care fund, established by IC 31-25-2-16.

As added by P.L.145-2006, SEC.273. Amended by P.L.1-2007, SEC.205; P.L.128-2012, SEC.140.

IC 31-27-6-31

Expiration of injunctions for unlicensed operation

Sec. 31. A court order granted under section 30(b)(2) of this chapter expires when the child placing agency is issued a license.

As added by P.L.145-2006, SEC.273.

IC 31-27-6-32

Violations of chapter

Sec. 32. A person who knowingly or intentionally violates this chapter commits a Class B misdemeanor.

As added by P.L.145-2006, SEC.273.

IC 31-28

ARTICLE 28. CHILD SERVICES: FOSTER CARE AND PLACEMENT OF CHILDREN

IC 31-28-1

Chapter 1. Health Summary Records of Children Receiving Foster Care

IC 31-28-1-1

Application

Sec. 1. This chapter applies to children who receive foster care that is funded by the department.

As added by P.L.145-2006, SEC.274. Amended by P.L.128-2012, SEC.141.

IC 31-28-1-2

"Provider"

Sec. 2. As used in this chapter, "provider" has the meaning set forth in IC 16-39-7-1.

As added by P.L.145-2006, SEC.274.

IC 31-28-1-3

Health summary record; contents

Sec. 3. The local office of the county in which a foster child resides shall maintain a health summary record for the foster child. The provider that has provided ongoing care to the child shall complete the record. The record must include the following:

(1) A summary of health care provided to the child.

(2) Recommendations for future health care needs of the child.

As added by P.L.145-2006, SEC.274. Amended by P.L.128-2012, SEC.142.

IC 31-28-1-4

Transfer of records

Sec. 4. The local office shall obtain the record from the provider required under section 3 of this chapter when the child:

(1) is placed in foster care; and

(2) is returned to the natural parents, adopted, or placed in another permanent plan.

As added by P.L.145-2006, SEC.274. Amended by P.L.128-2012, SEC.143.

IC 31-28-1-5

Forms

Sec. 5. The department shall provide the necessary forms to each provider to carry out the purposes of this chapter.

As added by P.L.145-2006, SEC.274.

IC 31-28-2

Chapter 2. Medical Records of Children Receiving Foster Care

IC 31-28-2-1

Application

Sec. 1. This chapter applies to children who receive foster care that is funded by the department.

As added by P.L.145-2006, SEC.274. Amended by P.L.128-2012, SEC.144.

IC 31-28-2-2

Medical treatment records; forms

Sec. 2. (a) If medical care is provided to a child who receives foster care, the person who has custody of the child shall inform the provider that the provider is required to file a copy of:

(1) the form provided under IC 31-28-3; and

(2) the child's medical treatment record for the medical care;

with the local office in which the child resides.

(b) The provider shall file the form and record with the local office.

As added by P.L.145-2006, SEC.274. Amended by P.L.128-2012, SEC.145.

IC 31-28-2-3

Maintenance of records

Sec. 3. The local office shall maintain the medical treatment records filed under section 2 of this chapter.

As added by P.L.145-2006, SEC.274. Amended by P.L.128-2012, SEC.146.

IC 31-28-2-4

Copies to foster parents

Sec. 4. The local office shall provide a copy of the medical treatment records filed under section 2 of this chapter to the person who provides foster care to a child.

As added by P.L.145-2006, SEC.274. Amended by P.L.128-2012, SEC.147.

IC 31-28-3

Chapter 3. Medical Passport Program for Child Receiving Foster Care

IC 31-28-3-1

Application

Sec. 1. This chapter applies to children who receive foster care that is funded by the department.

As added by P.L.145-2006, SEC.274. Amended by P.L.128-2012, SEC.148.

IC 31-28-3-2

Medical passport program

Sec. 2. The department shall establish a medical passport program for children who receive foster care. Under the program, the department shall do the following:

(1) Maintain a record of medical care provided to a foster child.

(2) Facilitate a provider in providing appropriate care to a foster child.

(3) Allow foster parents to authorize routine and emergency medical care to a foster child.

(4) Provide forms for a provider to submit to the local office under IC 31-28-2.

As added by P.L.145-2006, SEC.274. Amended by P.L.128-2012, SEC.149.

IC 31-28-3-3

Issuance and maintenance of passport

Sec. 3. (a) The local office shall issue the medical passport to a foster child when the child is placed in foster care. The passport must remain with the child until the child is:

(1) returned to the natural parents;

(2) adopted; or

(3) placed in another permanent plan.

(b) When a child is placed under subsection (a)(1), (a)(2), or (a)(3), the medical passport shall be returned to the local office that issued the passport.

As added by P.L.145-2006, SEC.274. Amended by P.L.128-2012, SEC.150.

IC 31-28-3-4

Administrative rules

Sec. 4. The director of the department shall adopt rules under IC 4-22-2 necessary to carry out this chapter.

As added by P.L.145-2006, SEC.274.

IC 31-28-4

Chapter 4. Interstate Compact on the Placement of Children

IC 31-28-4-1

Enactment; provision

Sec. 1. The interstate compact on the placement of children is enacted into law under this chapter and entered into with all other jurisdictions legally joining the compact in the form substantially as follows:

ARTICLE I. PURPOSE AND POLICY

It is the purpose and policy of the party states to cooperate with each other in the interstate placement of children to the end that:

(a) Each child requiring placement shall receive the maximum opportunity to be placed in a suitable environment and with a person or an institution having appropriate qualifications and facilities to provide a necessary and desirable degree and type of care.

(b) The appropriate authorities in a state where a child is to be placed may have full opportunity to ascertain the circumstances of the proposed placement, thereby promoting full compliance with applicable requirements for the protection of the child.

(c) The proper authorities of the state from which the placement is made may obtain the most complete information on the basis of which to evaluate a projected placement before the placement is made.

(d) Appropriate jurisdictional arrangements for the care of children must be promoted.

ARTICLE II. DEFINITIONS

As used in this compact:

(a) "Child" means a person who, by reason of minority, is legally subject to parental, guardianship, or similar control.

(b) "Sending agency" means:

(1) a party state or a party state's officer or employee;

(2) a subdivision of a party state or the subdivision's officer or employee;

(3) a court of a party state;

(4) a person;

(5) a corporation;

(6) an association;

(7) a charitable agency; or

(8) any other entity;

that sends, brings, or causes to be sent or brought any child to another party state.

(c) "Receiving state" means the state to which a child is sent, brought, or caused to be sent or brought, whether by public authorities or private persons or agencies, and whether for placement with state or local public authorities or for placement with private agencies or persons.

(d) "Placement" means the arrangement for the care of a child by an individual in a free home, in a boarding home, or in a child-caring agency or institution but does not include an institution caring for the

mentally ill, mentally defective, or epileptic or any institution primarily educational in character, and a hospital or other medical facility.

ARTICLE III. CONDITIONS FOR PLACEMENT

(a) A sending agency may not send, bring, or cause to be sent or brought into any other party state a child for placement in foster care or as a preliminary to a possible adoption unless the sending agency complies with each requirement under article III and with the receiving state's laws governing the placement of children.

(b) Before sending, bringing, or causing any child to be sent or brought into a receiving state for placement in foster care or as a preliminary to a possible adoption, the sending agency shall furnish the appropriate public authorities in the receiving state written notice of the intention to send, bring, or place the child in the receiving state. The notice shall contain the following:

(1) The child's name, place, and date of birth.

(2) The identity and address or addresses of the child's parents or legal guardian.

(3) The name and address of the person, agency, or institution to or with which the sending agency proposes to send, bring, or place the child.

(4) A full statement of the reasons for the proposed action and evidence of the authority under which the placement is proposed to be made.

(c) A public officer or agency in a receiving state that receives a notice under paragraph (b) of article III is entitled, upon request, to receive additional information necessary to carry out the purpose and policy of this compact from the sending agency or any other appropriate officer or agency of or in the sending agency's state.

(d) The child shall not be sent, brought, or caused to be sent or brought into the receiving state until the appropriate public authorities in the receiving state shall notify the sending agency, in writing, to the effect that the proposed placement does not appear to be contrary to the interests of the child.

ARTICLE IV. PENALTY FOR ILLEGAL PLACEMENT

The sending, bringing, or causing to be sent or brought into any receiving state of a child in violation of the terms of this compact shall constitute a violation of the laws respecting the placement of children of both the state in which the sending agency is located or from which the sending agency sends or brings the child and of the receiving state. The violation may be punished or penalized by the laws of either jurisdiction. In addition to liability for any punishment or penalty, any violation shall constitute full and sufficient grounds for the suspension or revocation of a license, permit, or other legal authorization held by the sending agency which empowers or allows the sending agency to place or care for children.

ARTICLE V. RETENTION OF JURISDICTION

(a) The sending agency shall retain jurisdiction over the child sufficient to determine all matters relating to the custody, supervision, care, treatment and disposition of the child, which the sending agency

would have had if the child had remained in the sending agency's state, until the child is adopted, reaches majority, becomes self-supporting, or is discharged with the concurrence of the appropriate authority in the receiving state. The jurisdiction shall also include the power to effect or cause the child's return or transfer to another location and custody as provided by law. The sending agency shall continue to have financial responsibility for support and maintenance of the child during the period of placement. Nothing contained in this compact shall defeat a claim of jurisdiction by a receiving state sufficient to deal with an act of delinquency or crime committed within the receiving state.

(b) When a sending agency is a public agency, the sending agency may enter into an agreement with an authorized public or private agency in the receiving state providing for the performance of one (1) or more services in respect of such case by the latter as agent for the sending agency.

(c) Nothing in this compact shall be construed to prevent a private charitable agency authorized to place children in the receiving state from performing services or acting as agent in that state for a private charitable agency of the sending state. This compact does not prevent the agency in the receiving state from discharging financial responsibility for the support and maintenance of a child who has been placed on behalf of the sending agency without relieving the responsibility set forth in paragraph (a).

ARTICLE VI. INSTITUTIONAL
CARE OF DELINQUENT CHILDREN

A child adjudicated delinquent may be placed in an institution in another party jurisdiction under this compact, but no placement shall be made unless the child is given a court hearing on notice to the parent or guardian with opportunity to be heard prior to the child being sent to the other party jurisdiction for institutional care and the court finds that:

(1) equivalent facilities for the child are not available in the sending agency's jurisdiction; and

(2) institutional care in the other jurisdiction is in the best interest of the child and will not produce undue hardship.

ARTICLE VII. COMPACT ADMINISTRATOR

The executive head of each jurisdiction party to this compact shall designate an officer who shall be general coordinator of activities under this compact in the general coordinator's jurisdiction and who, acting jointly with like officers of other party jurisdictions, shall have power to promulgate rules and regulations to carry out more effectively the terms and provisions of this compact.

ARTICLE VIII. LIMITATIONS

This compact does not apply to:

(a) The sending or bringing of a child into a receiving state by the child's parent, stepparent, grandparent, adult brother or sister, adult uncle or aunt, or guardian and leaving the child with any such relative or nonagency guardian in the receiving state.

(b) Any placement, sending, or bringing of a child into a receiving

state under any other interstate compact to which both the state from which the child is sent or brought and the receiving state are party, or to any other agreement between the states which has the force of law.

ARTICLE IX. ENACTMENT AND WITHDRAWAL

This compact shall be open to joinder by any state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and, with the consent of Congress, the Government of Canada or any province thereof. This compact shall become effective with respect to any jurisdiction when the jurisdiction has enacted the same into law. Withdrawal from this compact shall be by the enactment of a statute repealing the same, but shall not take effect until two (2) years after the effective date of the statute and until written notice of the withdrawal has been given by the withdrawing state to the governor of each other party jurisdiction. Withdrawal of a party state shall not affect the rights, duties, and obligations under this compact of any sending agency with respect to a placement made prior to the effective date of withdrawal.

ARTICLE X. CONSTRUCTION AND SEVERABILITY

The provisions of this compact shall be liberally construed to effectuate the compact's purposes. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability of this compact to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability of this compact to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

As added by P.L.145-2006, SEC.274.

IC 31-28-4-1.5

Application of chapter until state withdraws from compact

Sec. 1.5. (a) This chapter remains in effect with respect to any state, territory, or possession of the United States, for the District of Columbia, or for the Commonwealth of Puerto Rico if the state, territory, or possession or the district or commonwealth has not adopted the interstate compact for the placement of children under IC 31-28-6. This chapter remains in effect until the governor gives written notice of the withdrawal of Indiana from the compact set forth in section 1 of this chapter to the governor of each other jurisdiction that is a party to the compact set forth in section 1 of this chapter.

(b) IC 31-28-6 shall be used for the interstate placement of children for a state, territory, or possession of the United States, for the District of Columbia, or for the Commonwealth of Puerto Rico if the state, territory, possession, district, or commonwealth has adopted the interstate compact for the placement of children in the format found in IC 31-28-6.

As added by P.L.143-2008, SEC.10.

IC 31-28-4-2
Financial responsibility for placed children

Sec. 2. Financial responsibility for a child placed under the provisions of the interstate compact on the placement of children shall be determined in accordance with Article V. However, for the partial or complete default of performance, the provisions of IC 31-2-1 (before its repeal), IC 31-1.5 (before its repeal), IC 31-18, IC 12-14-22-9, and IC 12-14-22-10 also may be invoked. In any appropriate case, financial support or contribution may be obtained by an appropriate agency in Indiana under IC 31-40 to aid in the discharge of the financial obligations of a sending agency that has placed a child in another state under the compact.
As added by P.L.145-2006, SEC.274.

IC 31-28-4-3
"Appropriate public authorities"; notices; responsibility

Sec. 3. The "appropriate public authorities" as used in Article III of the interstate compact on the placement of children (section 1 of this chapter), with reference to this state, means the department, and the department shall receive and act with reference to notices required by Article III.
As added by P.L.145-2006, SEC.274.

IC 31-28-4-4
"Appropriate authority in receiving state"

Sec. 4. As used in paragraph (a) of Article V of the interstate compact on the placement of children (section 1 of this chapter), the phrase "appropriate authority in the receiving state" with reference to this state means the department.
As added by P.L.145-2006, SEC.274.

IC 31-28-4-5
Agreements between party states; authorization; approval

Sec. 5. The officers and agencies of this state and the subdivisions of this state having authority to place children may enter into agreements with appropriate officers or agencies of or in other party states under paragraph (b) of Article V of the interstate compact on the placement of children (section 1 of this chapter). An agreement that contains a financial commitment or imposes a financial obligation on this state or a subdivision or agency of this state is not binding unless the agreement has the approval in writing of the auditor of state in the case of the state and of the chief local fiscal officer in the case of a subdivision of the state.
As added by P.L.145-2006, SEC.274.

IC 31-28-4-6
Visitation, inspection, or supervision requirements of children or facilities under other law; fulfillment under compact

Sec. 6. A requirement for visitation, inspection, or supervision of children, homes, institutions, or other agencies in another party state

that apply under the provisions of IC 31-27 is considered to be met if performed under an agreement entered into by appropriate officers or agencies of this state or a subdivision of this state as contemplated by paragraph (b) of Article V of the interstate compact on the placement of children (section 1 of this chapter).
As added by P.L.145-2006, SEC.274.

IC 31-28-4-7
Placement of delinquent children in institution in another state; retained jurisdiction

Sec. 7. A court having jurisdiction to place delinquent children may place the delinquent child in an institution in another state under Article VI of the interstate compact on the placement of children (section 1 of this chapter) and shall retain jurisdiction as provided in Article V.
As added by P.L.145-2006, SEC.274.

IC 31-28-4-8
"Executive head"; appointment of compact administrator

Sec. 8. As used in Article VII of the interstate compact on the placement of children (section 1 of this chapter), the term "executive head" means the governor. The governor may appoint a compact administrator in accordance with the terms of Article VII.
As added by P.L.145-2006, SEC.274.

IC 31-28-5

Chapter 5. Foster Care Sibling Visitation

IC 31-28-5-1

Application

Sec. 1. This chapter applies to:

(1) a child who receives foster care that is funded by the department or a local office; and

(2) a sibling of a child described in subdivision (1).

As added by P.L.133-2008, SEC.10. Amended by P.L.128-2012, SEC.151.

IC 31-28-5-2

Promotion of sibling visitation

Sec. 2. The department shall make reasonable efforts to promote sibling visitation for every child who receives foster care, including visitation when one (1) sibling receives foster care and another sibling does not.

As added by P.L.133-2008, SEC.10.

IC 31-28-5-3

Persons who may request sibling visitation; department establishment of sibling visitation

Sec. 3. A child, a child's foster parent, a child's guardian ad litem, a court appointed special advocate, or an agency that has the legal responsibility or authorization to care for, treat, or supervise a child may request the department to permit the child to have visitation with the child's sibling if the child or the child's sibling, or both, receive foster care. If the department finds that the sibling visitation is in the best interests of each child who receives foster care, the department shall permit the sibling visitation and establish a sibling visitation schedule.

As added by P.L.133-2008, SEC.10.

IC 31-28-5-4

Department denial of sibling visitation; petitions to juvenile courts; juvenile court orders

Sec. 4. (a) If the department denies a request for sibling visitation under section 3 of this chapter, the child's guardian ad litem or court appointed special advocate may petition the juvenile court with jurisdiction in the county in which the child receiving foster care is located for an order requiring sibling visitation.

(b) If the juvenile court determines it is in the best interests of the child receiving foster care to have sibling visitation, the juvenile court shall order sibling visitation and establish a schedule for the sibling visitation.

As added by P.L.133-2008, SEC.10.

IC 31-28-5-5

Appointment of guardian ad litem or court appointed special

advocate

Sec. 5. (a) The juvenile court may appoint a guardian ad litem or court appointed special advocate if a child receiving foster care requests sibling visitation.

(b) The provisions of IC 31-17-6 apply to a guardian ad litem or court appointed special advocate appointed under this section.

As added by P.L.133-2008, SEC.10.

IC 31-28-5.7
Repealed

(Repealed by P.L.48-2012, SEC.33.)

IC 31-28-5.8

Chapter 5.8. Collaborative Care

IC 31-28-5.8-1

"Collaborative care"

Sec. 1. As used in this chapter, "collaborative care" means any services or payments for services that the department provides for older youth under the terms of a collaborative care agreement, while the older youth is residing in:

(1) a foster family home licensed under IC 31-27-4 or a comparable law in the state where the home is located;

(2) a host home under an agreement with the older youth approved by the department;

(3) a child caring institution licensed under IC 31-27-3;

(4) a group home licensed under IC 31-27-5; or

(5) a supervised independent living arrangement approved by the department.

As added by P.L.48-2012, SEC.34.

IC 31-28-5.8-2

"Collaborative care agreement"

Sec. 2. As used in this chapter, "collaborative care agreement" means a voluntary agreement that:

(1) is signed by the department, a guardian ad litem or court appointed special advocate participating with the consent of the youth, and the older youth;

(2) is approved by a juvenile court under this chapter;

(3) includes provisions required or authorized under the department's rules concerning collaborative care services; and

(4) may be amended by agreement between the department, a guardian ad litem or court appointed special advocate participating with the consent of the youth, and the older youth without review or approval by the court.

As added by P.L.48-2012, SEC.34.

IC 31-28-5.8-3

"Host home"

Sec. 3. As used in this chapter, "host home" means:

(1) the home of a person who is a relative of an older youth that is not licensed under IC 31-27-4 or a comparable law in another state where the home is located; or

(2) the home of one (1) or more adults who are not relatives of the older youth.

As added by P.L.48-2012, SEC.34. Amended by P.L.123-2014, SEC.19.

IC 31-28-5.8-4

"Older youth"

Sec. 4. As used in this chapter, "older youth" means an individual who is at least eighteen (18) years of age but less than twenty (20)

years of age.
As added by P.L.48-2012, SEC.34. Amended by P.L.13-2013, SEC.78.

IC 31-28-5.8-5
Eligibility; petitions

Sec. 5. (a) An older youth who received foster care under a court order during the month before the individual became eighteen (18) years of age is eligible to receive collaborative care services at any time until the individual becomes twenty (20) years of age.

(b) An older youth may request the department to petition a juvenile court for approval of a collaborative care agreement under this chapter.

(c) A court may grant a petition described in subsection (b) if the court finds, consistent with applicable rules of the department, that the older youth is:

(1) employed;
(2) attending school or a vocational or educational certification or degree program;
(3) participating in a program or activity designed to promote or remove barriers to employment; or
(4) incapable of performing any of the activities in subdivisions (1) through (3) due to a medical condition documented by regularly updated information in the older youth's current case plan.

(d) A child who:

(1) is at least seventeen (17) years and six (6) months of age;
(2) is receiving foster care under a court order; and
(3) expects to be eligible for collaborative care under this chapter when the child becomes an older youth;

may request the department to start the process of planning for collaborative care under this chapter.
As added by P.L.48-2012, SEC.34.

IC 31-28-5.8-6
Updating case plans; transitional services plan; visitation with family case manager

Sec. 6. (a) The department shall, jointly with a guardian ad litem or court appointed special advocate participating with the consent of the youth and with the older youth, develop, implement, and update periodically a case plan that is consistent with requirements set forth in:

(1) 45 CFR 1356.21(g);
(2) IC 31-34-15-4; and
(3) the collaborative care agreement.

(b) The case plan must include a transitional services plan, as described in IC 31-25-2-21 and the applicable rules of the department.

(c) The case plan shall provide for visitation between the older youth and a department family case manager at least once every thirty

(30) days.
As added by P.L.48-2012, SEC.34.

IC 31-28-5.8-7
Periodic reviews by court; notice; participation; orders

Sec. 7. (a) A court that approves a collaborative care agreement under this chapter shall conduct periodic reviews during the term of the agreement. The court shall review the agreement and the progress made in complying with the provisions of the agreement and case plan developed under section 6 of this chapter.

(b) The court shall conduct each periodic review in a formal court hearing.

(c) The department shall provide a notice of a hearing, as provided in IC 31-32-1-4, at least seven (7) days before the date of the hearing to the following:

(1) The older youth.

(2) The foster parent or any other caretaker with whom the older youth is living, if applicable.

(3) Any caseworker responsible for visitation with the older youth.

(4) Any person or agency identified in the collaborative care agreement as a provider of services to the older youth.

(5) Any person or entity providing independent living services to the older youth developed under IC 31-25-2-7(a)(9) or 465 IAC 2-14.

(6) A guardian ad litem or court appointed special advocate participating with the consent of the older youth.

(d) A person to whom the department gives notice under subsection (c) is entitled to participate in a periodic review hearing as set forth in IC 31-34-21-4(d).

(e) The department shall prepare and submit to the court a written progress report for the periodic review hearing. The department shall provide a copy of the report with the notice of the hearing provided under subsection (c).

(f) The court must hold a periodic review hearing:

(1) not later than six (6) months after the date the court grants a petition under section 5 of this chapter; and

(2) at least once every six (6) months until the collaborative care agreement is terminated.

(g) After each periodic review hearing, the court shall enter an order that includes findings and conclusions concerning the progress made in implementing the collaborative care agreement and case plan of the older youth. If a permanency plan has been approved or modified for the youth, the court shall also review the permanency plan.
As added by P.L.48-2012, SEC.34.

IC 31-28-5.8-8
Closing collaborative care cases

Sec. 8. (a) A court shall close a collaborative care case at the:

(1) expiration of the term of the collaborative care agreement; or

(2) termination of the collaborative care agreement as set forth in the agreement or by department rules.

(b) If the department terminates a collaborative care agreement before the expiration date without the concurrence of the older youth, the court may, upon the request of the older youth or a guardian ad litem or court appointed special advocate participating with the consent of the older youth under section 2 of this chapter:

(1) hold a hearing regarding the cause of the termination of the collaborative care agreement; and

(2) enter an order containing findings and conclusions regarding whether the department properly terminated the agreement for good cause.

As added by P.L.48-2012, SEC.34.

IC 31-28-5.8-9
Adoption of rules

Sec. 9. The department shall adopt rules under IC 4-22-2 to implement this chapter.

As added by P.L.48-2012, SEC.34.

IC 31-28-5.8-10
Recipients of older youth foster care

Sec. 10. (a) This section applies to an individual receiving older youth foster care under IC 31-28-5.7 before the effective date of this chapter.

(b) The individual and the department may, by September 1, 2012, sign and submit to a court having jurisdiction over the older youth foster care case a new collaborative care agreement if the individual is eligible for collaborative care under this chapter.

(c) If the individual and the department do not sign a new collaborative care agreement under this chapter, the following continue to apply to the individual described in subsection (a):

(1) IC 31-28-5.7 and rules of the department adopted under IC 31-28-5.7-2; and

(2) any placement agreement or transitional services plan between the individual and department;

in effect before the effective date of this chapter.

(d) The department may adopt rules under IC 4-22-2, including emergency rules under IC 4-22-2-37.1, necessary to implement this section.

(e) This section expires June 30, 2015.

As added by P.L.48-2012, SEC.34.

IC 31-28-6

Chapter 6. Interstate Compact for the Placement of Children

IC 31-28-6-1

Enactment; provision

Sec. 1. Subject to IC 31-28-4-1.5, the interstate compact for the placement of children is enacted into law under this chapter and entered into with all other jurisdictions legally joining the compact in a form consistent with the compact terms and provisions as stated in this section in a form substantially as follows:

ARTICLE I. PURPOSE

The purpose of this interstate compact for the placement of children is to do the following:

(1) Provide a process through which children subject to this compact are placed in safe and suitable homes in a timely manner.

(2) Facilitate ongoing supervision of a placement, the delivery of services, and communication between the states.

(3) Provide operating procedures that will ensure that children are placed in safe and suitable homes in a timely manner.

(4) Provide for the adoption and enforcement of administrative rules implementing the provisions of this compact and regulating the covered activities of the member states.

(5) Provide for uniform data collection and information sharing between member states under this compact.

(6) Promote coordination between this compact, the Interstate Compact for Juveniles, the Interstate Compact on Adoption and Medical Assistance, and other compacts that affect the placement of and that provide services to children otherwise subject to this compact.

(7) Provide for a state's continuing legal jurisdiction and responsibility for placement and care of a child that it would have had if the placement were intrastate.

(8) Provide for the promulgation of guidelines, in collaboration with Indian tribes, for interstate cases involving Indian children as is or may be permitted by federal law.

ARTICLE II. DEFINITIONS

The following definitions apply throughout this compact:

(1) "Approved placement" means the public child placing agency in the receiving state has determined that the placement is both safe and suitable for the child.

(2) "Assessment" means an evaluation of a prospective placement by a public child placing agency in the receiving state to determine whether the placement meets the individualized needs of the child, including, but not limited to, the child's safety and stability, health and well-being, and mental, emotional, and physical development. An assessment is applicable to a placement by a public child placing agency.

(3) "Certification" means to attest, declare, or swear to before a judge or notary public.

(4) "Child" means an individual who is less than eighteen (18) years of age.
(5) "Default" means the failure of a member state to perform the obligations or responsibilities imposed upon it by this compact, the bylaws, or rules of the interstate commission.
(6) "Home study" means an evaluation of a home environment that is conducted in accordance with the applicable requirements of the state in which the home is located and that documents the preparation and the suitability of the placement resource for placement of a child in accordance with the laws and requirements of the state in which the home is located.
(7) "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for services provided to Indians by the Secretary of the Interior because of their status as Indians, including any Alaskan native village as defined in section 3(c) of the Alaska Native Claims Settlement Act, 43 U.S.C. 1602(c).
(8) "Interstate commission for the placement of children" means the commission that is created under Article VIII of this compact and that is generally referred to as "the interstate commission".
(9) "Jurisdiction" means the power and authority of a court to hear and decide matters.
(10) "Legal risk adoption" means a placement made preliminary to an adoption in which the prospective adoptive parents acknowledge in writing that a child can be ordered returned to the sending state or the birth mother's state of residence, if different from the sending state, and a final decree of adoption shall not be entered in any jurisdiction until all required consents are obtained or are dispensed with in accordance with applicable law.
(11) "Legal risk placement" means legal risk adoption.
(12) "Member state" means a state that has enacted this compact.
(13) "Noncustodial parent" means a person who, at the time of the commencement of court proceedings in the sending state, does not have sole legal custody of the child or has joint legal custody of a child, and who is not the subject of allegations or findings of child abuse or neglect.
(14) "Nonmember state" means a state that has not enacted this compact.
(15) "Notice of residential placement" means information regarding a placement into a residential facility that is provided to the receiving state, including, but not limited to, the name of the child, the date and place of birth of the child, the identity and address of the parent or legal guardian, evidence of authority to make the placement, and the name and address of the facility in which the child will be placed. The term also includes information regarding a discharge and any unauthorized absence from the facility.

(16) "Placement" means the act by a public or private child placing agency intended to arrange for the care or custody of a child in another state.
(17) "Private child placing agency" means any private corporation, agency, foundation, institution, or charitable organization, or any private person or attorney, that facilitates, causes, or is involved in the placement of a child from one (1) state to another and that is not an instrumentality of the state or acting under color of state law.
(18) "Provisional placement" means a determination made by the public child placing agency in the receiving state that the receiving state has determined that the proposed placement is safe and suitable, and, to the extent allowable, the receiving state has temporarily waived its standards or requirements otherwise applicable to prospective foster or adoptive parents so as not to delay the placement. Completion of the receiving state requirements regarding training for prospective foster or adoptive parents shall not delay an otherwise safe and suitable placement.
(19) "Public child placing agency" means any government child welfare agency or child protection agency, or a private entity under contract with such an agency, regardless of whether the agency or entity acts on behalf of a state, county, municipality, or other governmental unit, that facilitates, causes, or is involved in the placement of a child from one (1) state to another.
(20) "Receiving state" means the state to which a child is sent, brought, or caused to be sent or brought.
(21) "Relative" means someone who is related to the child as a parent, stepparent, sibling by half or whole blood or by adoption, grandparent, aunt, uncle, or first cousin, or a nonrelative with such significant ties to the child that they may be regarded as relatives as determined by the court in the sending state.
(22) "Residential facility" means a facility providing a level of care that is sufficient to substitute for parental responsibility or foster care and is beyond what is needed for assessment or treatment of an acute condition. For purposes of the compact, residential facilities do not include institutions that are primarily educational in character, hospitals, or other medical facilities.
(23) "Rule" means a written directive, mandate, standard, or principle that is issued by the interstate commission and promulgated under Article XI of this compact, that is of general applicability, and that implements, interprets, or prescribes a policy or provision of the compact. A rule has the force and effect of an administrative rule in a member state, and includes the amendment, repeal, or suspension of an existing rule.
(24) "Sending state" means the state from which the placement of a child is initiated.
(25) "Service member's permanent duty station" means the

military installation where an active duty armed services member is currently assigned and is physically located under competent orders that do not specify the duty as temporary.

(26) "Service member's state of legal residence" means the state in which the active duty armed services member is considered a resident for tax and voting purposes.

(27) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Marianas Islands, and any other territory of the United States.

(28) "State court" means a judicial body of a state that is vested by law with responsibility for adjudicating cases involving abuse, neglect, deprivation, delinquency, or status offenses of individuals less than eighteen (18) years of age.

(29) "Supervision" means monitoring provided by the receiving state once a child has been placed in a receiving state under this compact.

ARTICLE III. APPLICABILITY

(a) Except as otherwise provided in subsection (b) of this article, this compact applies to the following:

(1) The interstate placement of a child subject to ongoing court jurisdiction in the sending state, due to allegations or findings that the child has been abused, neglected, or deprived as defined by the laws of the sending state. However, the placement of such a child into a residential facility requires only notice of residential placement to the receiving state before placement.

(2) The interstate placement of a child adjudicated delinquent or unmanageable based on the laws of the sending state and subject to ongoing court jurisdiction of the sending state if:

(A) the child is being placed in a residential facility in another member state and is not covered under another compact; or

(B) the child is being placed in another member state and the determination of safety and suitability of the placement and services required is not provided through another compact.

(3) The interstate placement of any child by a public child placing agency or private child placing agency as defined in this compact as a preliminary step to a possible adoption.

(b) The provisions of this compact do not apply to the following:

(1) The interstate placement of a child in a custody proceeding in which a public child placing agency is not a party, if the placement is not intended to effectuate an adoption.

(2) The interstate placement of a child with a nonrelative in a receiving state by a parent with the legal authority to make such a placement. However, the placement is not intended to effectuate an adoption.

(3) The interstate placement of a child by one (1) relative with the lawful authority to make such a placement directly with a relative in a receiving state.

(4) The placement of a child not subject to subsection (a) into a

residential facility by the child's parent.

(5) The placement of a child with a noncustodial parent if:

(A) the noncustodial parent proves to the satisfaction of a court in the sending state a substantial relationship with the child;

(B) the court in the sending state makes a written finding that placement with the noncustodial parent is in the best interests of the child; and

(C) the court in the sending state dismisses its jurisdiction in an interstate placement in which the public child placing agency is a party to the proceeding.

(6) A child entering the United States from a foreign country for the purpose of adoption or leaving the United States to go to a foreign country for the purpose of adoption in that country.

(7) Cases in which a United States citizen child living overseas with the child's family, at least one (1) member of which is in the United States armed services and is stationed overseas, is removed and placed in a state.

(8) The sending of a child by a public child placing agency or a private child placing agency for a visit as defined by the rules of the interstate commission.

(c) For purposes of determining the applicability of this compact to the placement of a child with a family having a member in the United States armed services, the public child placing agency or private child placing agency may choose the state of the service member's permanent duty station or the service member's declared legal residence.

(d) This compact shall not be construed to prohibit the concurrent application of the provisions of this compact with other applicable interstate compacts, including the interstate compact for juveniles and the interstate compact on adoption and medical assistance. The interstate commission may, in cooperation with other interstate compact commissions having responsibility for the interstate movement, placement, or transfer of children, promulgate like rules to ensure the coordination of services, the timely placement of children, and the reduction of unnecessary or duplicative administrative or procedural requirements.

ARTICLE IV. JURISDICTION

(a) Except as provided in subsection (h) and ARTICLE V, subsection (b)(2) and (b)(3), concerning private and independent adoptions, and in interstate placements in which the public child placing agency is not a party to a custody proceeding, the sending state retains jurisdiction over a child with respect to all matters of custody and disposition of the child which it would have had if the child had remained in the sending state. Jurisdiction also includes the power to order the return of the child to the sending state.

(b) When an issue of child protection or custody is brought before a court in the receiving state, the court shall confer with the court of the sending state to determine the most appropriate forum for adjudication.

(c) In cases that are before a court and are subject to this compact, the taking of testimony for hearings before any judicial officer may occur in person, by telephone, by audio-video conference, or by other means approved by the Interstate Commission. Judicial officers may communicate with other judicial officers and persons involved in the interstate process as permitted by the canons of judicial conduct and any rules adopted by the Interstate Commission.

(d) In accordance with its own laws, the court in the sending state shall have authority to terminate its jurisdiction if:

(1) the parent with whom the child is reunified in the receiving state is the subject of allegations or findings of abuse or neglect, but only with the concurrence of the public child placing agency in the receiving state;

(2) the child is adopted;

(3) the child reaches the age of majority under the laws of the sending state;

(4) the child achieves legal independence under the laws of the sending state;

(5) a guardianship is created by a court in the receiving state with the concurrence of the court in the sending state;

(6) an Indian tribe has petitioned for and received jurisdiction from the court in the sending state; or

(7) the public child placing agency of the sending state requests termination and has obtained the concurrence of the public child placing agency in the receiving state.

(e) When a sending state court terminates its jurisdiction, the receiving state child placing agency shall be notified.

(f) Nothing in this article shall defeat a claim of jurisdiction by a receiving state court sufficient to deal with an act of truancy, delinquency, crime, or behavior that involves a child as defined by the laws of the receiving state, that is committed by the child in the receiving state, and that would be a violation of the laws of the receiving state.

(g) This article does not limit the receiving state's ability to take emergency jurisdiction for the protection of the child.

(h) The substantive laws of the state in which an adoption will be finalized shall solely govern all issues relating to the adoption of the child, and the court in which the adoption proceeding is filed has subject matter jurisdiction regarding all substantive issues relating to the adoption, except:

(1) when the child is a ward of another court that established jurisdiction over the child prior to the placement;

(2) when the child is in the legal custody of a public agency in the sending state; or

(3) when a court in the sending state has otherwise appropriately assumed jurisdiction over the child, prior to the submission of the request for approval of placement.

(i) A final decree of adoption shall not be entered in any jurisdiction until the placement is authorized as an approved placement by the public child placing agency in the receiving state.

ARTICLE V. PLACEMENT EVALUATION

(a) Before sending, bringing, or causing a child to be sent or brought into a receiving state, the public child placing agency shall provide a written request for assessment to the receiving state.

(b) For placements by a private child placing agency, a child may be sent or brought, or caused to be sent or brought, into a receiving state, upon receipt and immediate review of the required content in a request for approval of a placement by both the sending state's and the receiving state's public child placing agency. The required content to accompany a request for approval shall include all of the following:

(1) A request for approval identifying the child, the birth parent(s), the prospective adoptive parent(s), and the supervising agency, signed by the person requesting approval.

(2) The appropriate consents or relinquishments signed by the birth parents in accordance with the laws of the sending state, or where permitted, the laws of the state where the adoption will be finalized.

(3) Certification by a licensed attorney or authorized agent of a private adoption agency that the consent or relinquishment is in compliance with the applicable laws of the sending state, or where permitted the laws of the state where finalization of the adoption will occur.

(4) A home study.

(5) An acknowledgment of legal risk signed by the prospective adoptive parents.

(c) The sending state and the receiving state may request additional information or documents before finalization of an approved placement, but they may not delay travel by the prospective adoptive parents with the child if the required content for approval has been submitted and has been received and reviewed by the public child placing agency in both the sending state and the receiving state.

(d) Approval from the public child placing agency in the receiving state for a provisional or approved placement is required as provided for in the rules of the interstate commission.

(e) The procedures for making and the request for an assessment shall contain all information and be in such form as provided for in the rules of the interstate commission.

(f) Upon receipt of a request from the public child placing agency of the sending state, the receiving state shall initiate an assessment of the proposed placement to determine its safety and suitability. If the proposed placement is a placement with a relative, the public child placing agency of the sending state may request a determination for a provisional placement.

(g) The public child placing agency in the receiving state may request from the public child placing agency or the private child placing agency in the sending state, and shall be entitled to receive, supporting or additional information necessary to complete the assessment or approve the placement.

(h) The public child placing agency in the receiving state shall

approve a provisional placement and complete or arrange for the completion of the assessment within the timeframes established by the rules of the interstate commission.

(i) For a placement by a private child placing agency, the sending state shall not impose any additional requirements to complete the home study that are not required by the receiving state, unless the adoption is finalized in the sending state.

(j) The interstate commission may develop uniform standards for the assessment of the safety and suitability of interstate placements.

ARTICLE VI. PLACEMENT AUTHORITY

(a) Except as otherwise provided in this compact, no child subject to this compact shall be placed into a receiving state until approval for such placement is obtained.

(b) If the public child placing agency in the receiving state does not approve the proposed placement, the child shall not be placed. The receiving state shall provide written documentation of any such determination in accordance with the rules promulgated by the interstate commission. Such a determination is not subject to judicial review in the sending state.

(c) If the proposed placement is not approved, any interested party shall have standing to seek an administrative review of the receiving state's determination.

(d) The administrative review and any further judicial review associated with the determination shall be conducted in the receiving state under its applicable administrative procedures.

(e) If a determination not to approve the placement of the child in the receiving state is overturned upon review, the placement shall be considered approved. However, all administrative or judicial remedies must be exhausted or the time for such remedies must have passed.

ARTICLE VII. PLACING AGENCY RESPONSIBILITY

(a) For the interstate placement of a child made by a public child placing agency or state court:

(1) the public child placing agency in the sending state shall have financial responsibility for:

(A) the ongoing support and maintenance for the child during the period of the placement, unless otherwise provided for in the receiving state; and

(B) as determined by the public child placing agency in the sending state, services for the child beyond the public services for which the child is eligible in the receiving state;

(2) the receiving state shall have financial responsibility only for:

(A) any assessment conducted by the receiving state; and

(B) supervision conducted by the receiving state at the level necessary to support the placement as agreed upon by the public child placing agencies of the receiving and sending states; and

(3) nothing in this provision prohibits public child placing agencies in the sending state from entering into agreements with

licensed agencies or persons in the receiving state to conduct assessments and provide supervision.

(b) For the placement of a child by a private child placing agency preliminary to a possible adoption, the private child placing agency shall be:

(1) legally responsible for the child during the period of placement as provided for in the law of the sending state until the finalization of the adoption; and

(2) financially responsible for the child absent a contractual agreement to the contrary.

(c) The public child placing agency in the receiving state shall provide timely assessments, as provided for in the rules of the interstate commission.

(d) The public child placing agency in the receiving state shall provide, or arrange for the provision of, supervision and services for the child, including timely reports, during the period of the placement.

(e) This compact does not limit the authority of the public child placing agency in the receiving state to contract with a licensed agency or person in the receiving state for an assessment or the provision of supervision or services for the child or otherwise authorize the provision of supervision or services by a licensed agency during the period of placement.

(f) Each member state shall provide for coordination among its branches of government concerning the state's participation in, and compliance with, the compact and interstate commission activities, through the creation of an advisory council or use of an existing body or board.

(g) Each member state shall establish a central state compact office, which shall be responsible for state compliance with the compact and the rules of the interstate commission.

(h) The public child placing agency in the sending state shall oversee compliance with the provisions of the Indian Child Welfare Act (25 U.S.C. 1901 et seq.) for placements subject to the provisions of this compact, before placement.

(i) With the consent of the interstate commission, states may enter into limited agreements that facilitate the timely assessment and provision of services and supervision of placements under this compact.

ARTICLE VIII. INTERSTATE COMMISSION FOR THE PLACEMENT OF CHILDREN

The member states hereby establish, by way of this compact, a commission known as the "interstate commission for the placement of children". The activities of the interstate commission are the formation of public policy and are a discretionary state function. The interstate commission:

(1) is a joint commission of the member states and shall have the responsibilities, powers, and duties set forth herein, and such additional powers as may be conferred upon it by subsequent concurrent action of the respective legislatures of the member

states;

(2) consists of one (1) commissioner from each member state, who shall be appointed by the executive head of the state human services administration with ultimate responsibility for the child welfare program, and who shall have the legal authority to vote on policy related matters governed by this compact binding the state;

(3) operates under:

(A) a requirement that each member state represented at a meeting of the interstate commission is entitled to one (1) vote;

(B) a requirement that a majority of the member states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the interstate commission;

(C) a requirement that a representative shall not delegate a vote to another member state;

(D) a requirement that a representative may delegate voting authority to another person from the same member state for a specified meeting; and

(E) a requirement that the interstate commission shall include, in addition to the commissioners of each member state, persons who are members of interested organizations as defined in the bylaws or rules of the interstate commission and who shall be ex officio and shall not be entitled to vote on any matter before the interstate commission; and

(4) shall establish an executive committee, which shall have the authority to administer the day to day operations and administration of the interstate commission but does not have the power to engage in rulemaking.

ARTICLE IX. POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The interstate commission has powers to do the following:

(1) Promulgate rules and take all necessary actions to effect the goals, purposes, and obligations as enumerated in this compact.

(2) Provide for dispute resolution among member states.

(3) Issue, upon request of a member state, advisory opinions concerning the meaning or interpretation of the interstate compact or the interstate commission's bylaws, rules, or actions.

(4) Enforce compliance with this compact or the bylaws or rules of the interstate commission under Article XII.

(5) Collect standardized data concerning the interstate placement of children subject to this compact as directed through its rules, which shall specify the data to be collected, the means of collection and data exchange, and reporting requirements.

(6) Establish and maintain offices as may be necessary for the transacting of its business.

(7) Purchase and maintain insurance and bonds.

(8) Hire or contract for services of personnel or consultants as

necessary to carry out its functions under the compact and establish personnel qualification policies and rates of compensation.

(9) Establish and appoint committees and officers, including, but not limited to, an executive committee as required by Article X.

(10) Accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of the donations and grants.

(11) Lease, purchase, accept contributions or donations of, or otherwise own, hold, improve, or use any property, whether real, personal, or mixed.

(12) Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, whether real, personal, or mixed.

(13) Establish a budget and make expenditures.

(14) Adopt a seal and bylaws governing the management and operation of the interstate commission.

(15) Report annually to the legislatures, the governors, the judiciary, and the state advisory councils of the member states concerning the activities of the interstate commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the interstate commission.

(16) Coordinate and provide education, training, and public awareness regarding the interstate movement of children for officials involved in such activity.

(17) Maintain books and records in accordance with the bylaws of the interstate commission.

(18) Perform such functions as may be necessary or appropriate to achieve the purposes of this compact.

ARTICLE X. ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

(a) Bylaws.

(1) Within twelve (12) months after the first interstate commission meeting, the interstate commission shall adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of this compact.

(2) The interstate commission's bylaws and rules shall establish conditions and procedures under which the interstate commission shall make its information and official records available to the public for inspection or copying. The interstate commission may exempt from disclosure information or official records to the extent they would adversely affect personal privacy rights or proprietary interests.

(b) Meetings.

(1) The interstate commission shall meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the member states, shall call additional meetings.

(2) Public notice shall be given by the interstate commission of all meetings, and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The interstate commission and its committees may close a meeting, or part of a meeting, where it determines by two-thirds (2/3) vote that an open meeting would be likely to:

(A) relate solely to the interstate commission's internal personnel practices and procedures;

(B) disclose matters specifically exempted from disclosure by federal law;

(C) disclose financial or commercial information that is privileged, proprietary, or confidential in nature;

(D) involve accusing a person of a crime, or formally censuring a person;

(E) disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy or physically endanger one (1) or more persons;

(F) disclose investigative records compiled for law enforcement purposes; or

(G) specifically relate to the interstate commission's participation in a civil action or other legal proceeding.

(3) For a meeting, or part of a meeting, closed under this provision, the interstate commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exemption provision. The interstate commission shall keep minutes that shall fully and clearly describe all matters discussed in the meeting and shall provide a full and accurate summary of actions taken and the reasons for the actions, including a description of the views expressed and the record of a roll call vote. All documents considered in connection with an action shall be identified in the minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the interstate commission or by court order.

(4) The bylaws may provide for meetings of the interstate commission to be conducted by telecommunication or other electronic communication.

(c) Officers and staff.

(1) The interstate commission may, through its executive committee, appoint or retain a staff director for such period, upon such terms and conditions, and for such compensation as the interstate commission may deem appropriate. The staff director shall serve as secretary to the interstate commission, but shall not have a vote. The staff director may hire and supervise such other staff as may be authorized by the interstate commission.

(2) The interstate commission shall elect, from among its members, a chairperson and a vice chairperson of the executive committee and other necessary officers, each of whom shall

have such authority and duties as may be specified in the bylaws.

(d) Qualified immunity, defense, and indemnification.

(1) The interstate commission's staff director and the employees of the commission are immune from suit and liability, either personally or in official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to any actual or alleged act, error, or omission that occurred, or that the staff director or employee had a reasonable basis for believing occurred, within the scope of commission employment, duties, or responsibilities. The staff director or an employee is not protected from suit or liability for damage, loss, injury, or liability caused by a criminal act or intentional or willful and wanton misconduct.

(2) The liability of the interstate commission's staff director and employees or interstate commission representatives, acting within the scope of such person's employment or duties, for acts, errors, or omissions occurring within such person's state, may not exceed the limits of liability set forth under the Constitution and laws of that state for state officials, employees, and agents. The interstate commission is considered to be an instrumentality of the states for the purposes of any such action. Nothing in this subsection shall be construed to protect such person from suit or liability for damage, loss, injury, or liability caused by a criminal act or the intentional or willful and wanton misconduct of such person.

(3) The interstate commission shall defend the staff director and its employees and, subject to the approval of the attorney general or other appropriate legal counsel of the member state, shall defend the commissioner of a member state in a civil action seeking to impose liability arising out of an actual or alleged act, error, or omission that occurred within the scope of interstate commission employment, duties, or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of interstate commission employment, duties, or responsibilities, if the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such person.

(4) To the extent not covered by the state involved, member state, or the interstate commission, the representatives or employees of the interstate commission shall be held harmless in the amount of a settlement or judgment, including attorney's fees and costs, obtained against such persons arising out of an actual or alleged act, error, or omission that occurred within the scope of interstate commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of interstate commission employment, duties, or responsibilities, if the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

ARTICLE XI. RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

(a) The interstate commission shall promulgate and publish rules in order to effectively and efficiently achieve the purposes of the compact.

(b) Rulemaking shall occur under the criteria set forth in this article and the bylaws and rules adopted pursuant thereto. Such rulemaking shall substantially conform to the principles of the "Model State Administrative Procedures Act," 1981 Act, Uniform Laws Annotated, Vol. 15, p. 1 (2000), or such other administrative procedure acts as the interstate commission deems appropriate and consistent with due process requirements under the United States Constitution as now or hereafter interpreted by the United States Supreme Court. All rules and amendments shall become binding as of the date specified, as published with the final version of the rule as approved by the interstate commission.

(c) When promulgating a rule, the interstate commission shall, at a minimum:

(1) publish the proposed rule's entire text, stating the reasons for that proposed rule;

(2) allow and invite any and all persons to submit written data, facts, opinions, and arguments, which information shall be added to the record and be made publicly available; and

(3) promulgate a final rule and its effective date, if appropriate, based on input from state or local officials or interested parties.

(d) Rules promulgated by the interstate commission shall have the force and effect of administrative rules and shall be binding in the compacting states to the extent and in the manner provided for in this compact.

(e) Not later than sixty (60) days after a rule is promulgated, an interested person may file a petition in the U.S. District Court for the District of Columbia or in the federal district court of the district where the interstate commission's principal office is located for judicial review of such rule. If the court finds that the interstate commission's action is not supported by substantial evidence in the rulemaking record, the court shall hold the rule unlawful and set it aside.

(f) A majority of the legislatures of the member states may reject a rule by enacting, in the same manner used to adopt the compact, a statute or resolution that provides that the rule shall have no further force and effect in any member state.

(g) The existing rules governing the operation of the interstate compact on the placement of children that are superseded by this act shall be null and void not less than twelve (12), but not more than twenty-four (24), months after the first meeting of the interstate commission created hereunder, as determined by the members during the first meeting.

(h) Within the first twelve (12) months of operation, the interstate commission shall promulgate rules addressing the following:

(1) Transition rules.

(2) Forms and procedures.
(3) Time lines.
(4) Data collection and reporting.
(5) Rulemaking.
(6) Visitation.
(7) Progress reports/supervision.
(8) Sharing of information/confidentiality.
(9) Financing of the interstate commission.
(10) Mediation, arbitration, and dispute resolution.
(11) Education, training, and technical assistance.
(12) Enforcement.
(13) Coordination with other interstate compacts.

(i) Upon determination by a majority of the members of the interstate commission that an emergency exists:

(1) the interstate commission may promulgate an emergency rule only if the emergency rule is required to:

(A) protect the children covered by this compact from an imminent threat to their health, safety, and well-being;

(B) prevent loss of federal or state funds; or

(C) meet a deadline for the promulgation of an administrative rule required by federal law;

(2) an emergency rule shall become effective immediately upon adoption, provided that the usual rulemaking procedures provided hereunder shall be retroactively applied to the rule as soon as reasonably possible, but not later than ninety (90) days after the effective date of the emergency rule; and

(3) an emergency rule shall be promulgated as provided for in the rules of the interstate commission.

ARTICLE XII. OVERSIGHT, DISPUTE RESOLUTION, ENFORCEMENT

(a) Oversight.

(1) The interstate commission shall oversee the administration and operation of the compact.

(2) The executive, legislative, and judicial branches of state government in each member state shall enforce this compact and the rules of the interstate commission and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. The compact and its rules shall be binding in the compacting states to the extent and in the manner provided for in this compact.

(3) All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact.

(4) The interstate commission shall be entitled to receive service of process in any action in which the validity of a compact provision or rule is the issue for which a judicial determination has been sought and shall have standing to intervene in any proceedings. Failure to provide service of process to the interstate commission shall render any judgment, order, or other determination, however so captioned or classified, void as to the

interstate commission, this compact, or the bylaws or rules of the interstate commission.

(b) Dispute resolution.

(1) The interstate commission shall attempt, upon the request of a member state, to resolve disputes that are subject to the compact and that may arise among member states and between member and nonmember states.

(2) The interstate commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes among compacting states. The costs of such mediation or dispute resolution shall be the responsibility of the parties to the dispute.

(c) Enforcement.

(1) If the interstate commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact, its bylaws, or rules, the interstate commission may:

(A) provide remedial training and specific technical assistance;

(B) provide written notice to the defaulting state and other member states of the nature of the default and the means of curing the default. The interstate commission shall specify the conditions by which the defaulting state must cure its default;

(C) by majority vote of the members, initiate against a defaulting member state legal action in the United States District Court for the District of Columbia or, at the discretion of the interstate commission, in the federal district where the interstate commission has its principal office, to enforce compliance with the provisions of the compact or with the interstate commission's bylaws or rules. The relief sought may include both injunctive relief and damages. If judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees; or

(D) avail itself of any other remedies available under state law or the rules relating to the regulation of official or professional conduct.

ARTICLE XIII. FINANCING OF THE COMMISSION

(a) The interstate commission shall pay or provide for the payment of the reasonable expenses of its establishment, organization, and ongoing activities.

(b) The interstate commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the interstate commission and its staff, which must be in a total amount sufficient to cover the interstate commission's annual budget as approved by its members each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the interstate commission, which shall promulgate a rule binding upon all member states.

(c) The interstate commission shall not incur obligations of any kind before securing the funds adequate to meet the obligations. The interstate commission shall not pledge the credit of any of the member states, except by and with the authority of the member state.

(d) The interstate commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the interstate commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the interstate commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the interstate commission.

ARTICLE XIV. MEMBER STATES, EFFECTIVE DATE, AND AMENDMENT

(a) Any state is eligible to become a member state.

(b) The compact shall become effective and binding upon legislative enactment of the compact into law by thirty-five (35) states. The effective date shall be the later of July 1, 2007, or upon enactment of the compact into law by the thirty-fifth state. Thereafter, the compact shall become effective and binding as to any other member state upon enactment of the compact into law by that state. The executive heads of the state human services administration with ultimate responsibility for the child welfare program of nonmember states or their designees shall be invited to participate in the activities of the interstate commission on a nonvoting basis before adoption of the compact by all states.

(c) The interstate commission may propose amendments to the compact for enactment by the member states. No amendment shall become effective and binding on the member states unless and until it is enacted into law by unanimous consent of the member states.

ARTICLE XV. WITHDRAWAL AND DISSOLUTION

(a) Withdrawal.

(1) Once effective, this compact continues in force and remains binding upon each and every member state. However, a member state may withdraw from the compact by specifically repealing the statute that enacted the compact into law.

(2) Withdrawal from this compact shall be by the enactment of a statute repealing the statute establishing the compact. The effective date of withdrawal is the effective date of the repeal of the statute.

(3) The withdrawing state shall immediately notify the president of the interstate commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The interstate commission shall then notify the other member states of the withdrawing state's intent to withdraw.

(4) The withdrawing state is responsible for all assessments, obligations, and liabilities incurred through the effective date of withdrawal.

(5) Reinstatement following withdrawal of a member state shall occur upon the withdrawing state reenacting the compact or

upon such later date as determined by the members of the interstate commission.

(b) Dissolution of compact.

(1) This compact shall dissolve effective upon the date of the withdrawal or default of the member state that reduces the membership in the compact to one (1) member state.

(2) Upon the dissolution of this compact, the compact becomes void and is of no further force or effect, and the business and affairs of the interstate commission shall be concluded and surplus funds shall be distributed in accordance with the bylaws.

ARTICLE XVI. SEVERABILITY AND CONSTRUCTION

(a) The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

(b) The provisions of this compact shall be liberally construed to effectuate its purposes.

(c) Nothing in this compact shall be construed to prohibit the concurrent applicability of other interstate compacts to which the states are members.

ARTICLE XVII. BINDING EFFECT OF COMPACT AND OTHER LAWS

(a) This compact does not prevent the enforcement of any other law of a member state that is not inconsistent with this compact.

(b) Binding effect of this compact.

(1) All lawful actions of the interstate commission, including all rules and bylaws promulgated by the interstate commission, are binding upon the member states.

(2) All agreements between the interstate commission and the member states are binding in accordance with their terms.

(3) If any provision of this compact exceeds the constitutional limits imposed on the legislature of any member state, the provision is ineffective to the extent of the conflict with the constitutional provision in question in that member state.

ARTICLE XVIII. INDIAN TRIBES

Notwithstanding any other provision in this compact, the interstate commission may promulgate guidelines to permit Indian tribes to utilize the compact to achieve any or all of the purposes of the compact as specified in Article I. The interstate commission shall make reasonable efforts to consult with Indian tribes in promulgating guidelines to reflect the diverse circumstances of the various Indian tribes.

As added by P.L.143-2008, SEC.12. Amended by P.L.128-2012, SEC.152.

IC 31-30

ARTICLE 30. JUVENILE LAW: JUVENILE COURT JURISDICTION

IC 31-30-1

Chapter 1. Jurisdiction Generally

IC 31-30-1-0.1

Application of certain amendments to chapter

Sec. 0.1. The following amendments to this chapter apply as follows:

(1) The amendments made to section 1 of this chapter by P.L.217-2001 apply 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.

(2) The amendments made to section 2.5 of this chapter by P.L.131-2009 apply to proceedings pending on or initiated on or after May 12, 2009.

As added by P.L.220-2011, SEC.508.

IC 31-30-1-0.2

Repealed

(Repealed by P.L.63-2012, SEC.34.)

IC 31-30-1-0.3

Transfer of guardianship matters to juvenile court

Sec. 0.3. On July 1, 2001, all guardianship of the person matters:

(1) that are pending in a court other than a juvenile court; and

(2) over which a juvenile court has exclusive original jurisdiction under this chapter, as amended by P.L.217-2001;

shall be transferred to the juvenile court. A matter transferred under this section shall be treated as if it were originally filed in the juvenile court.

As added by P.L.220-2011, SEC.510.

IC 31-30-1-1

Exclusive original jurisdiction

Sec. 1. A juvenile court has exclusive original jurisdiction, except as provided in sections 9, 10, 12, and 13 of this chapter, in the following:

(1) Proceedings in which a child, including a child of divorced parents, is alleged to be a delinquent child under IC 31-37.

(2) Proceedings in which a child, including a child of divorced parents, is alleged to be a child in need of services under IC 31-34.

(3) Proceedings concerning the paternity of a child under IC 31-14.

(4) Proceedings under the interstate compact on juveniles under IC 31-37-23.

(5) Proceedings governing the participation of a parent,

guardian, or custodian in a program of care, treatment, or rehabilitation for a child under IC 31-34-16 or IC 31-37-15.

(6) Proceedings under IC 31-34-4, IC 31-34-5, IC 31-37-5, and IC 31-37-6 governing the detention of a child before a petition has been filed.

(7) Proceedings to issue a protective order under IC 31-32-13.

(8) Proceedings in which a child less than sixteen (16) years of age is alleged to have committed an act that would be a misdemeanor traffic offense if committed by an adult.

(9) Proceedings in which a child is alleged to have committed an act that would be an offense under IC 9-30-5 if committed by an adult.

(10) Guardianship of the person proceedings for a child:

(A) who has been adjudicated as a child in need of services;

(B) for whom a juvenile court has approved a permanency plan under IC 31-34-21-7 that provides for the appointment of a guardian of the person; and

(C) who is the subject of a pending child in need of services proceeding under IC 31-34.

(11) Proceedings concerning involuntary drug and alcohol treatment under IC 31-32-16.

(12) Proceedings under the interstate compact for juveniles under IC 11-13-4.5-1.5.

(13) Proceedings under IC 31-28-5.8.

(14) Other proceedings specified by law.

As added by P.L.1-1997, SEC.13. Amended by P.L.164-1999, SEC.1; P.L.217-2001, SEC.3; P.L.196-2003, SEC.1; P.L.137-2011, SEC.6; P.L.48-2012, SEC.35.

IC 31-30-1-2

Applicability of juvenile law to certain offenses

Sec. 2. Except as provided in IC 33-33-45-6 and section 8 of this chapter, the juvenile law does not apply to the following:

(1) A child who is alleged to have committed a violation of a statute defining an infraction, except as provided under IC 7.1-5-7.

(2) A child who is alleged to have committed a violation of an ordinance.

(3) A child who:

(A) is alleged to have committed an act that would be a felony if committed by an adult; and

(B) has previously been waived under IC 31-30-3 (or IC 31-6-2-4 before its repeal) to a court having felony jurisdiction.

As added by P.L.1-1997, SEC.13. Amended by P.L.98-2004, SEC.104; P.L.67-2008, SEC.1.

IC 31-30-1-2.5

Persons prohibited from serving as guardian or custodian of a child

Sec. 2.5. A juvenile court may not appoint a person to serve as the

guardian or custodian of a child or permit a person to continue to serve as a guardian or custodian of a child if the person:

(1) is a sexually violent predator (as described in IC 35-38-1-7.5);

(2) was at least eighteen (18) years of age at the time of the offense and committed child molesting (IC 35-42-4-3) or sexual misconduct with a minor (IC 35-42-4-9) against a child less than sixteen (16) years of age:

(A) by using or threatening the use of deadly force;

(B) while armed with a deadly weapon; or

(C) that resulted in serious bodily injury; or

(3) was less than eighteen (18) years of age at the time of the offense but was tried and convicted as an adult of:

(A) an offense described in:

(i) IC 35-42-4-1;

(ii) IC 35-42-4-2 (before its repeal);

(iii) IC 35-42-4-3 as a Class A or Class B felony (for crimes committed before July 1, 2014) or as a Level 1, Level 2, or Level 3 felony (for crimes committed after June 30, 2014);

(iv) IC 35-42-4-5(a)(1);

(v) IC 35-42-4-5(a)(2);

(vi) IC 35-42-4-5(a)(3);

(vii) IC 35-42-4-5(b)(1) as a Class A or Class B felony (for crimes committed before July 1, 2014) or as a Level 2, Level 3, or Level 4 felony (for crimes committed after June 30, 2014);

(viii) IC 35-42-4-5(b)(2); or

(ix) IC 35-42-4-5(b)(3) as a Class A or Class B felony (for crimes committed before July 1, 2014) or as a Level 1, Level 2, or Level 3 felony (for crimes committed after June 30, 2014);

(B) an attempt or conspiracy to commit a crime listed in clause (A); or

(C) a crime under the laws of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in clauses (A) and (B).

As added by P.L.139-2006, SEC.3, P.L.140-2006, SEC.18, and P.L.173-2006, SEC.18. Amended by P.L.131-2009, SEC.38; P.L.158-2013, SEC.314; P.L.214-2013, SEC.24; P.L.168-2014, SEC.39.

IC 31-30-1-3

Cases involving adults charged with crimes

Sec. 3. A juvenile court has concurrent original jurisdiction in cases involving adults charged with the crime of:

(1) neglect of a dependent (IC 35-46-1-4);

(2) contributing to delinquency (IC 35-46-1-8);

(3) violating the compulsory school attendance law IC 20-33-2);

(4) criminal confinement of a child (IC 35-42-3-3); or

(5) interference with custody (IC 35-42-3-4).

As added by P.L.1-1997, SEC.13. Amended by P.L.1-2005, SEC.202.

IC 31-30-1-4

Juvenile court lacks jurisdiction over individuals at least 16 years of age committing certain felonies; retention of jurisdiction by court having adult criminal jurisdiction

Sec. 4. (a) The juvenile court does not have jurisdiction over an individual for an alleged violation of:

(1) IC 35-41-5-1(a) (attempted murder);

(2) IC 35-42-1-1 (murder);

(3) IC 35-42-3-2 (kidnapping);

(4) IC 35-42-4-1 (rape);

(5) IC 35-42-4-2 (criminal deviate conduct) (before its repeal);

(6) IC 35-42-5-1 (robbery) if:

(A) the robbery was committed while armed with a deadly weapon; or

(B) the robbery results in bodily injury or serious bodily injury;

(7) IC 35-42-5-2 (carjacking) (before its repeal);

(8) IC 35-47-2-1 (carrying a handgun without a license), if charged as a felony;

(9) IC 35-47-10 (children and firearms), if charged as a felony;

(10) IC 35-47-5-4.1 (dealing in a sawed-off shotgun); or

(11) any offense that may be joined under IC 35-34-1-9(a)(2) with any crime listed in subdivisions (1) through (10);

if the individual was at least sixteen (16) years of age at the time of the alleged violation.

(b) Once an individual described in subsection (a) has been charged with any crime listed in subsection (a), the court having adult criminal jurisdiction shall retain jurisdiction over the case even if the individual pleads guilty to or is convicted of a lesser included offense. A plea of guilty to or a conviction of a lesser included offense does not vest jurisdiction in the juvenile court.

As added by P.L.1-1997, SEC.13. Amended by P.L.17-2001, SEC.7; P.L.151-2006, SEC.12; P.L.216-2007, SEC.35; P.L.67-2008, SEC.2; P.L.158-2013, SEC.315; P.L.214-2013, SEC.25; P.L.168-2014, SEC.40.

IC 31-30-1-5

Concurrent original jurisdiction with probate court

Sec. 5. A juvenile court has concurrent original jurisdiction with the probate court in the following proceedings:

(1) Proceedings to commit children under IC 12-26.

(2) Proceedings to terminate the parent-child relationship under IC 31-35.

However, the juvenile court's jurisdiction is limited as described in IC 12-26-1-4.

As added by P.L.1-1997, SEC.13.

IC 31-30-1-6
Probate court jurisdiction over guardianship of person less than 18 years of age; additional proceedings

Sec. 6. (a) Subject to subsections (b) and (c), this article does not prohibit a probate court from exercising its jurisdiction over guardianship of a person who is less than eighteen (18) years of age.

(b) If allegations in the petition for guardianship or allegations produced at guardianship proceedings indicate that the person for whom the guardianship is requested meets the definition of a child in need of services under IC 31-34-1, the probate court on its own motion or at the request of a party shall:

(1) send the petition for guardianship or the record of guardianship to the department of child services; and

(2) direct the department of child services to initiate an assessment to determine whether the person for whom the guardianship is requested is a child in need of services.

(c) The probate court retains jurisdiction over the matter until the juvenile court authorizes the filing of a petition under IC 31-34-9.

(d) If a juvenile court:

(1) issues an order establishing or modifying a guardianship of a minor; and

(2) requests additional proceedings regarding the guardianship of the minor;

the probate court that retains jurisdiction over the case or another appropriate court shall conduct additional proceedings.

As added by P.L.1-1997, SEC.13. Amended by P.L.145-2006, SEC.275; P.L.162-2011, SEC.40.

IC 31-30-1-7
Juveniles tried as adults

Sec. 7. A juvenile court has concurrent original jurisdiction in cases involving individuals who are subject to prosecution under IC 14-15-10-3.

As added by P.L.1-1997, SEC.13.

IC 31-30-1-8
Exclusive jurisdiction of juvenile division of Marion superior court

Sec. 8. The juvenile division of the Marion superior court established under IC 33-33-49 has exclusive jurisdiction over a child who:

(1) has been taken into custody in Marion County; and

(2) has allegedly committed an act that would be a misdemeanor traffic offense if committed by an adult.

As added by P.L.1-1997, SEC.13. Amended by P.L.98-2004, SEC.105.

IC 31-30-1-9
Concurrent original jurisdiction of act that would be murder or felony by child who left Indiana; transfer following extradition

Sec. 9. (a) A court having felony jurisdiction has concurrent

original jurisdiction with the juvenile court if there is probable cause to believe that:

(1) a child has committed an act that would be murder or a felony if committed by an adult;

(2) the child has left Indiana; and

(3) the state cannot obtain jurisdiction over the child in any other lawful manner except under the proceedings authorized for the extradition of alleged felons.

(b) Upon the return of any child under the criminal extradition law, the court having felony jurisdiction shall immediately transfer the child to the juvenile court under section 11 of this chapter.

As added by P.L.1-1997, SEC.13.

IC 31-30-1-10

Paternity proceedings to enforce support

Sec. 10. A circuit court has concurrent original jurisdiction with the juvenile court, including the probate court described in IC 33-31-1-9(b), for the purpose of establishing the paternity of a child in a proceeding under:

(1) IC 31-18;

(2) IC 31-1.5 (before its repeal); or

(3) IC 31-2-1 (before its repeal);

to enforce a duty of support.

As added by P.L.1-1997, SEC.13. Amended by P.L.98-2004, SEC.106.

IC 31-30-1-11

Transfer from court having criminal jurisdiction; release on recognizance; detention

Sec. 11. (a) Except as provided in section 9 of this chapter, if a court having criminal jurisdiction determines that a defendant is alleged to have committed a crime before the defendant is eighteen (18) years of age, the court shall immediately transfer the case, together with certified copies of all papers, documents, and testimony, to the juvenile court. The juvenile court shall proceed as if it had received a referral under IC 31-37-8.

(b) The court having criminal jurisdiction shall release the child on the child's own recognizance or to the child's parent, guardian, or custodian upon that person's written promise to bring the child before the juvenile court at a specified time. However, the court may order the child detained if the court finds probable cause to believe that the child committed an act that would be a crime if committed by an adult and that:

(1) the child is unlikely to appear before the juvenile court for subsequent proceedings;

(2) detention is essential to protect the child or the community;

(3) the parent, guardian, or custodian:

(A) cannot be located; or

(B) is unable or unwilling to take custody of the child; or

(4) the child has a reasonable basis for requesting that he or she

not be released.

If the child is detained for a reason specified by subdivision (3) or (4), the child must be detained in accordance with IC 31-37-7-1.

(c) If the child is not released, the child shall be delivered to a place designated by the juvenile court. The court having criminal jurisdiction shall promptly notify the child's parent, guardian, or custodian and an intake officer of where the child is being held and the reasons for the child's detention.

(d) A child transferred to the juvenile court under this section (or IC 31-6-2-2 before its repeal) may not be released on bail.

As added by P.L.1-1997, SEC.13.

IC 31-30-1-12

Jurisdiction of child custody, parenting time, or child support proceeding in marriage dissolution; survival of order

Sec. 12. (a) Subject to subsection (b), a court having jurisdiction under IC 31-17-2 of a child custody, parenting time, or child support proceeding in a marriage dissolution has concurrent original jurisdiction with the juvenile court for the purpose of modifying custody of a child who is under the jurisdiction of the juvenile court because:

(1) the child is the subject of a child in need of services proceeding;

(2) the child is the subject of a juvenile delinquency proceeding that does not involve an act described under IC 31-37-1-2; or

(3) the child is the subject of a paternity proceeding.

(b) Whenever the court having child custody jurisdiction under IC 31-17-2 in a marriage dissolution modifies child custody as provided by this section, the modification is effective only when the juvenile court:

(1) enters an order approving the child custody modification; or

(2) terminates the child in need of services proceeding, the juvenile delinquency proceeding, or the paternity proceeding.

(c) If a juvenile court:

(1) modifies child custody, child support, or parenting time; and

(2) terminates a child in need of services proceeding or a juvenile delinquency proceeding regarding the child;

the court having concurrent original jurisdiction under subsection (a) shall assume or reassume primary jurisdiction of the case to address all issues.

(d) A court that assumes or reassumes jurisdiction of a case under subsection (c) may modify child custody, child support, or parenting time in accordance with applicable modification statutes.

(e) An order modifying child custody, child support, or parenting time issued under this section survives the termination of the child in need of services proceeding or the juvenile delinquency proceeding until the court having concurrent or original jurisdiction assumes primary jurisdiction and modifies the order.

As added by P.L.164-1999, SEC.2. Amended by P.L.162-2011, SEC.41.

IC 31-30-1-13

Jurisdiction of child custody proceeding in paternity proceeding; paternity of child; survival of order

Sec. 13. (a) Subject to subsection (b), a court having jurisdiction under IC 31-14 of a child custody proceeding in a paternity proceeding has concurrent original jurisdiction with another juvenile court for the purpose of modifying custody of a child who is under the jurisdiction of the other juvenile court because:

(1) the child is the subject of a child in need of services proceeding; or

(2) the child is the subject of a juvenile delinquency proceeding that does not involve an act described under IC 31-37-1-2.

(b) Whenever the court having child custody jurisdiction under IC 31-14 in a paternity proceeding modifies child custody as provided by this section, the modification is effective only when the juvenile court with jurisdiction over the child in need of services proceeding or juvenile delinquency proceeding:

(1) enters an order approving the child custody modification; or

(2) terminates the child in need of services proceeding or the juvenile delinquency proceeding.

(c) If a juvenile court:

(1) establishes or modifies paternity of a child; and

(2) terminates a child in need of services proceeding or a juvenile delinquency proceeding regarding the child;

the court having concurrent original jurisdiction under subsection (a) shall assume or reassume primary jurisdiction of the case to address all other issues.

(d) An order establishing or modifying paternity of a child by a juvenile court survives the termination of the child in need of services proceeding or the juvenile delinquency proceeding.

As added by P.L.164-1999, SEC.3. Amended by P.L.162-2011, SEC.42.

IC 31-30-2

Chapter 2. Continuing Jurisdiction

IC 31-30-2-0.1

Application of certain amendments to chapter

Sec. 0.1. The amendments made to section 1 of this chapter by P.L.217-2001 apply 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.511.

IC 31-30-2-1

Continuing juvenile court jurisdiction

Sec. 1. (a) Except as provided in subsections (b) and (c), the juvenile court's jurisdiction over a delinquent child or a child in need of services and over the child's parent, guardian, or custodian continues until:

(1) the child becomes twenty-one (21) years of age, unless the court discharges the child and the child's parent, guardian, or custodian at an earlier time; or

(2) guardianship of the child is awarded to the department of correction.

(b) The juvenile court may, on its own motion, after guardianship of a child is awarded to the department of correction, reinstate the court's jurisdiction for the purpose of ordering the child's parent, guardian, or custodian to participate in programs operated by or through the department of correction.

(c) The juvenile court's jurisdiction over a parent or guardian of the estate of a child under this section continues until the parent or guardian of the estate has satisfied the financial obligation of the parent or guardian of the estate that is imposed under IC 31-40 (or IC 31-6-4-18 before its repeal).

(d) Except as provided in subsection (g), the jurisdiction of the juvenile court over a proceeding described in IC 31-30-1-1(10) for a guardianship of the person continues until the earlier of the date that:

(1) the juvenile court terminates the guardianship of the person; or

(2) the child becomes:

(A) nineteen (19) years of age, if a child who is at least eighteen (18) years of age is a full-time student in a secondary school or the equivalent level of vocational or career and technical education; or

(B) eighteen (18) years of age, if clause (A) does not apply.

If the guardianship of the person continues after the child becomes the age specified in subdivision (2), the juvenile court shall transfer the guardianship of the person proceedings to a court having probate jurisdiction in the county in which the guardian of the person resides. If the juvenile court has both juvenile and probate jurisdiction, the juvenile court may transfer the guardianship of the person proceedings to the probate docket of the court.

(e) The jurisdiction of the juvenile court to enter, modify, or enforce a support order under IC 31-40-1-5 continues during the time that the court retains jurisdiction over a guardianship of the person proceeding described in IC 31-30-1-1(10).

(f) At any time, a juvenile court may, with the consent of a probate court, transfer to the probate court guardianship of the person proceedings and any related support order initiated in the juvenile court.

(g) A juvenile court may retain jurisdiction over an older youth, as defined in IC 31-28-5.8-4, who is a recipient or beneficiary of:

(1) kinship guardianship assistance under Title IV-E of the federal Social Security Act (42 U.S.C. 673), as amended; or

(2) other financial assistance provided to or for the benefit of a child who:

(A) was previously adjudicated as a child in need of services or delinquent child;

(B) is a protected person under a legal guardianship if IC 29-3-8-9(f) applies; and

(C) is approved for assistance under a rule or published policy of the department.

As added by P.L.1-1997, SEC.13. Amended by P.L.217-2001, SEC.4; P.L.234-2007, SEC.167; P.L.48-2012, SEC.36.

IC 31-30-2-2

Notice of child's release from custody of department of correction

Sec. 2. If the department of correction is awarded guardianship of a child under section 1(a)(2) of this chapter (or IC 31-6-2-3(a)(2) before its repeal), the department of correction shall notify the court awarding the guardianship when the department will release the child from the department's custody. The notification must be sent to the court at least ten (10) days before the child's release.

As added by P.L.1-1997, SEC.13.

IC 31-30-2-3

Sua sponte reinstatement of court's jurisdiction; modification of decree

Sec. 3. After receiving notification under section 2 of this chapter (or IC 31-6-2-3(b) before its repeal), a juvenile court may within thirty (30) days after notification, on the court's own motion, reinstate jurisdiction over the child for the purpose of modifying under IC 31-34-23 or IC 31-37-22 the court's original dispositional decree.

As added by P.L.1-1997, SEC.13.

IC 31-30-2-4

Petition for reinstatement of court's jurisdiction; modification

Sec. 4. (a) The department of correction may petition the court to reinstate the court's jurisdiction over the child and the child's parent, guardian, or custodian to modify the court's decree under IC 31-34-23 or IC 31-37-22 (or IC 31-6-7-16 before its repeal) or order the child's parent, guardian, or custodian to participate in programs operated by

or through the department of correction.

(b) The department may petition a court to reinstate the court's jurisdiction over an older youth for purposes of IC 31-28-5.8, including an older youth who previously was a child in need of services who is eligible for collaborative care under IC 31-28-5.8.

As added by P.L.1-1997, SEC.13. Amended by P.L.48-2012, SEC.37.

IC 31-30-2-5

Satisfaction of restitution order

Sec. 5. If any part of an order of restitution remains unpaid at the time a child is released by the department of correction, the court may reinstate jurisdiction over the child and place the child under the supervision of the probation department until the restitution order is satisfied.

As added by P.L.1-1997, SEC.13.

IC 31-30-3

Chapter 3. Waiver of Jurisdiction

IC 31-30-3-1

Waiver of jurisdiction defined

Sec. 1. Waiver of jurisdiction refers to an order of the juvenile court that waives the case to a court that would have jurisdiction had the act been committed by an adult. Waiver is for the offense charged and all included offenses.

As added by P.L.1-1997, SEC.13.

IC 31-30-3-2

Heinous or aggravated act, or act as part of repetitive pattern of delinquent acts

Sec. 2. Upon motion of the prosecuting attorney and after full investigation and hearing, the juvenile court may waive jurisdiction if it finds that:

(1) the child is charged with an act that is a felony:

(A) that is heinous or aggravated, with greater weight given to acts against the person than to acts against property; or

(B) that is a part of a repetitive pattern of delinquent acts, even though less serious;

(2) the child was at least fourteen (14) years of age when the act charged was allegedly committed;

(3) there is probable cause to believe that the child committed the act;

(4) the child is beyond rehabilitation under the juvenile justice system; and

(5) it is in the best interests of the safety and welfare of the community that the child stand trial as an adult.

As added by P.L.1-1997, SEC.13. Amended by P.L.67-2008, SEC.3.

IC 31-30-3-3

Act that would be felony relating to controlled substances

Sec. 3. Upon motion of the prosecuting attorney and after a full investigation and a hearing, the court may waive jurisdiction if it finds that:

(1) the child is charged with an act that, if committed by an adult, would be a felony under IC 35-48-4;

(2) there is probable cause to believe that the child has committed the act;

(3) the child was at least sixteen (16) years of age when the act was allegedly committed; and

(4) it is in the best interests of the safety and the welfare of the community for the child to stand trial as an adult.

As added by P.L.1-1997, SEC.13.

IC 31-30-3-4

Act that would be murder

Sec. 4. Upon motion of the prosecuting attorney and after full

investigation and hearing, the juvenile court shall waive jurisdiction if it finds that:

(1) the child is charged with an act that would be murder if committed by an adult;

(2) there is probable cause to believe that the child has committed the act; and

(3) the child was at least ten (10) years of age when the act charged was allegedly committed;

unless it would be in the best interests of the child and of the safety and welfare of the community for the child to remain within the juvenile justice system.

As added by P.L.1-1997, SEC.13.

IC 31-30-3-5

Acts that would be Level 1 through Level 4 felonies, involuntary manslaughter, or reckless homicide

Sec. 5. Except for those cases in which the juvenile court has no jurisdiction in accordance with IC 31-30-1-4, the court shall, upon motion of the prosecuting attorney and after full investigation and hearing, waive jurisdiction if it finds that:

(1) the child is charged with an act that, if committed by an adult, would be:

(A) a Level 1 felony, Level 2 felony, Level 3 felony, or Level 4 felony, except a felony defined by IC 35-48-4;

(B) involuntary manslaughter as a Level 5 felony under IC 35-42-1-4; or

(C) reckless homicide as a Level 5 felony under IC 35-42-1-5;

(2) there is probable cause to believe that the child has committed the act; and

(3) the child was at least sixteen (16) years of age when the act charged was allegedly committed;

unless it would be in the best interests of the child and of the safety and welfare of the community for the child to remain within the juvenile justice system.

As added by P.L.1-1997, SEC.13. Amended by P.L.158-2013, SEC.316.

IC 31-30-3-6

Act that would be felony and prior felony or nontraffic misdemeanor conviction

Sec. 6. Upon motion by the prosecuting attorney, the juvenile court shall waive jurisdiction if it finds that:

(1) the child is charged with an act which would be a felony if committed by an adult; and

(2) the child has previously been convicted of a felony or a nontraffic misdemeanor.

As added by P.L.1-1997, SEC.13.

IC 31-30-3-7

Time limit for making or granting motion to waive jurisdiction

Sec. 7. A motion to waive jurisdiction may not be made or granted after:

(1) the child has admitted the allegations in the petition at the initial hearing; or

(2) the first witness has been sworn at the factfinding hearing.

As added by P.L.1-1997, SEC.13.

IC 31-30-3-8

Order to hold child for proceedings; recognizance bond

Sec. 8. If jurisdiction is waived, the juvenile court:

(1) shall order the child held for proceedings in the court to which the child is waived; and

(2) may fix a recognizance bond for the child to answer the charge in the court to which the child is waived.

As added by P.L.1-1997, SEC.13.

IC 31-30-3-9

Probable cause finding

Sec. 9. The finding of probable cause required to waive jurisdiction is sufficient to establish probable cause in the court to which the child is waived.

As added by P.L.1-1997, SEC.13.

IC 31-30-3-10

Waiver order; findings

Sec. 10. A waiver order must include specific findings of fact to support the order.

As added by P.L.1-1997, SEC.13.

IC 31-30-3-11

Waiver order; filing

Sec. 11. The prosecuting attorney shall file a copy of the waiver order with the court to which the child has been waived when the prosecuting attorney files the indictment or information.

As added by P.L.1-1997, SEC.13.

IC 31-30-4

Chapter 4. Sentencing Alternatives for Certain Offenders Under Criminal Court Jurisdiction

IC 31-30-4-1

Application

Sec. 1. This chapter applies to the following:

(1) An offender who:

(A) is less than eighteen (18) years of age;

(B) has been waived to a court with criminal jurisdiction under IC 31-30-3; and

(C) is charged as an adult offender.

(2) An offender who:

(A) is less than eighteen (18) years of age; and

(B) does not come under the jurisdiction of a juvenile court because the offender is charged with an offense listed in IC 31-30-1-4.

As added by P.L.104-2013, SEC.1.

IC 31-30-4-2

Offenders less than 18 years of age; sentencing options

Sec. 2. (a) Subject to subsection (c), if:

(1) an offender is:

(A) less than eighteen (18) years of age;

(B) waived to a court with criminal jurisdiction under IC 31-30-3 because the offender committed an act that would be a felony if committed by an adult; and

(C) convicted of committing the felony or enters a plea of guilty to committing the felony; or

(2) an offender is:

(A) less than eighteen (18) years of age;

(B) charged with a felony over which a juvenile court does not have jurisdiction under IC 31-30-1-4; and

(C) convicted of committing the felony by a court with criminal jurisdiction or enters a plea of guilty to committing the felony with the court;

the court may, upon its own motion, a motion of the prosecuting attorney, or a motion of the offender's legal representative, impose a sentence upon the conviction of the offender under this chapter.

(b) If a court elects to impose a sentence upon conviction of an offender under subsection (a) and, before the offender is sentenced, the department of correction determines that there is space available for the offender in a juvenile facility of the division of youth services of the department, the sentencing court may:

(1) impose an appropriate criminal sentence on the offender under IC 35-50-2;

(2) suspend the criminal sentence imposed, notwithstanding IC 35-50-2-2 (before its repeal), IC 35-50-2-2.1, and IC 35-50-2-2.2;

(3) order the offender to be placed into the custody of the

department of correction to be placed in the juvenile facility of the division of youth services; and

(4) provide that the successful completion of the placement of the offender in the juvenile facility is a condition of the suspended criminal sentence.

(c) The court may not impose a sentence on an offender under subsection (a) until:

(1) the prosecuting attorney has notified the victim of the felony of the possible imposition of a sentence on the offender under this chapter; and

(2) either:

(A) the probation department of the court has conducted a presentence investigation concerning the offender and reported its findings to the court; or

(B) the department of correction has conducted a diagnostic evaluation of the offender and reported its findings to the court.

As added by P.L.104-2013, SEC.1. Amended by P.L.168-2014, SEC.41.

IC 31-30-4-3

Violation of suspended criminal sentence; court options

Sec. 3. (a) If there is probable cause to believe that an offender described under section 2(b) of this chapter has:

(1) violated a condition of the offender's suspended criminal sentence; or

(2) committed a new offense;

the court shall conduct a review hearing to determine if the offender has committed the violation or the new offense unless the offender waives the hearing.

(b) If the court finds by a preponderance of the evidence after a review hearing conducted under subsection (a) that the offender has violated a condition of the offender's suspended criminal sentence or committed a new offense or if the offender waives the hearing, the court may:

(1) continue the offender's placement in the juvenile facility under section 2(b) of this chapter;

(2) order execution of all or part of the offender's previously suspended criminal sentence in an adult facility recommended by the department of correction; or

(3) make any other modifications to the sentence imposed on the offender under section 2(b) of this chapter the court considers appropriate.

As added by P.L.104-2013, SEC.1.

IC 31-30-4-4

Reclassification of offender in a juvenile facility; transfer to adult facility

Sec. 4. (a) The department of correction may reclassify an offender placed in a juvenile facility under section 2(b) of this

chapter and transfer the offender to an appropriate adult facility if the department determines that placement of the offender in any juvenile facility of the division of youth services is no longer appropriate.

(b) If the department of correction reclassifies and transfers an offender under this section:

(1) the department shall notify the sentencing court of the circumstances of the reclassification and transfer; and

(2) the sentencing court:

(A) shall hold a review hearing concerning the reclassification and transfer of the offender; and

(B) after the hearing is conducted under clause (A), may order execution of all or part of the offender's suspended criminal sentence in an adult facility of the department of correction.

As added by P.L.104-2013, SEC.1.

IC 31-30-4-5

Offender progress report; court options

Sec. 5. (a) At the request of a sentencing court, the department of correction shall provide a progress report to the sentencing court concerning an offender sentenced and placed in a juvenile facility under section 2(b) of this chapter. When the offender becomes eighteen (18) years of age:

(1) the department shall notify the sentencing court; and

(2) the sentencing court shall hold a review hearing concerning the offender before the offender becomes nineteen (19) years of age.

(b) Except as provided in subsection (c), after a hearing conducted under subsection (a), the sentencing court may:

(1) continue the offender's placement in a juvenile facility until the objectives of the sentence imposed on the offender have been met, if the sentencing court finds that the objectives of the sentence imposed on the offender have not been met;

(2) discharge the offender if the sentencing court finds that the objectives of the sentence imposed on the offender have been met;

(3) order execution of all or part of the offender's suspended criminal sentence in an adult facility of the department of correction; or

(4) place the offender:

(A) in home detention under IC 35-38-2.5;

(B) in a community corrections program under IC 35-38-2.6;

(C) on probation under IC 35-50-7; or

(D) in any other appropriate alternative sentencing program.

(c) This subsection applies to an offender over whom a juvenile court lacks jurisdiction under IC 31-30-1-4 who is convicted of one (1) or more of the following offenses:

(1) Murder (IC 35-42-1-1).

(2) Attempted murder (IC 35-41-5-1).

(3) Kidnapping (IC 35-42-3-2).

(4) Rape as a Class A felony (for a crime committed before July 1, 2014) or a Level 1 felony (for a crime committed after June 30, 2014) (IC 35-42-4-1(b)).
(5) Criminal deviate conduct as a Class A felony (IC 35-42-4-2(b)) (before its repeal).
(6) Robbery as a Class A felony (for a crime committed before July 1, 2014) or a Level 2 felony (for a crime committed after June 30, 2014) (IC 35-42-5-1), if:
(A) the offense was committed while armed with a deadly weapon; and
(B) the offense resulted in bodily injury to any person other than a defendant.

The court may not modify the original sentence of an offender to whom this subsection applies if the prosecuting attorney objects in writing to the modification. The prosecuting attorney shall set forth in writing the prosecuting attorney's reasons for objecting to the sentence modification.
As added by P.L.104-2013, SEC.1. Amended by P.L.168-2014, SEC.42.

IC 31-30-4-6
Offenders in juvenile facilities; security or safety risks

Sec. 6. (a) At any time before an offender placed in a juvenile facility under section 2(b) of this chapter becomes twenty-one (21) years of age, the department of correction may transfer the offender to an adult facility if the department of correction believes the offender is a safety or security risk to:
(1) the other offenders or the staff at the juvenile facility; or
(2) the public.

(b) If the department of correction transfers an offender to an adult facility under this section, the department shall notify the sentencing court of the circumstances of the transfer.
As added by P.L.104-2013, SEC.1.

IC 31-30-4-7
Revocation of suspended criminal sentence; credit for time served

Sec. 7. If the suspension of a criminal sentence is revoked under this chapter, all time served by an offender in a juvenile facility of the division of youth services of the department of correction shall be credited toward any criminal sentence imposed on the offender under this chapter.
As added by P.L.104-2013, SEC.1.

IC 31-31

ARTICLE 31. JUVENILE LAW: JUVENILE COURT ADMINISTRATION

IC 31-31-1

Chapter 1. Funding of Juvenile Court Operations

IC 31-31-1-1

Appropriations

Sec. 1. The county fiscal body shall appropriate sufficient money for the operation of the juvenile court.

As added by P.L.1-1997, SEC.14.

IC 31-31-2

Chapter 2. Fees and Costs

IC 31-31-2-1

Fees

Sec. 1. The fees in juvenile court proceedings are set under IC 33-37-4-3.

As added by P.L.1-1997, SEC.14. Amended by P.L.98-2004, SEC.107.

IC 31-31-2-2

Costs

Sec. 2. An adult who is convicted of an offense in the juvenile court is liable for costs under IC 33-37-4-1.

As added by P.L.1-1997, SEC.14. Amended by P.L.98-2004, SEC.108.

IC 31-31-2-3

Other costs prohibited

Sec. 3. Except as provided in sections 1 and 2 of this chapter, no other costs may be charged to any person in any proceeding in the juvenile court.

As added by P.L.1-1997, SEC.14.

IC 31-31-3

Chapter 3. Juvenile Court Magistrates and Referees in Circuits With a Population of at Least 50,000

IC 31-31-3-1

Application of chapter

Sec. 1. This chapter applies to a judicial circuit having a population of not less than fifty thousand (50,000).

As added by P.L.1-1997, SEC.14.

IC 31-31-3-2

Magistrates

Sec. 2. (a) Except as provided in subsection (b) or (c), after June 30, 2014, the judge of the juvenile court may appoint not more than one (1) full-time magistrate under IC 33-23-5.

(b) The judge of the juvenile court may appoint more than one (1) full-time magistrate only if the appointment of an additional magistrate is expressly authorized by the general assembly.

(c) If the judge of the juvenile court appointed one (1) or more full-time magistrates under this section before July 1, 2014, the judge may continue to appoint or reappoint a full-time magistrate to each of those positions after June 30, 2014.

As added by P.L.1-1997, SEC.14. Amended by P.L.98-2004, SEC.109; P.L.23-2014, SEC.1; P.L.113-2014, SEC.119.

IC 31-31-3-3

Referees; appointment

Sec. 3. The judge of a juvenile court may appoint one (1) or more part-time juvenile court referees.

As added by P.L.1-1997, SEC.14. Amended by P.L.98-2004, SEC.110; P.L.201-2011, SEC.10.

IC 31-31-3-4

Referees; qualifications

Sec. 4. A person appointed as a part-time juvenile court referee under this chapter must be admitted to the practice of law in Indiana.

As added by P.L.1-1997, SEC.14.

IC 31-31-3-5

Referees; funding for salaries

Sec. 5. The county shall pay the salary of a part-time juvenile court referee appointed under this chapter.

As added by P.L.1-1997, SEC.14.

IC 31-31-3-6

Referees; duties; findings and recommendations; administration of oaths

Sec. 6. A part-time juvenile court referee:

(1) shall perform duties assigned by the court;

(2) shall submit findings and recommendations in writing to the

juvenile court, which shall enter such order as it considers proper; and

(3) may administer oaths in the performance of duties assigned by the juvenile court.

As added by P.L.1-1997, SEC.14.

IC 31-31-4

Chapter 4. Juvenile Court Referees in Circuits With a Population of Less Than 50,000

IC 31-31-4-1

Application of chapter

Sec. 1. This chapter applies to a judicial circuit having a population of less than fifty thousand (50,000).

As added by P.L.1-1997, SEC.14.

IC 31-31-4-2

Appointment

Sec. 2. The judge of a juvenile court may appoint one (1) or more part-time juvenile court referees.

As added by P.L.1-1997, SEC.14. Amended by P.L.98-2004, SEC.111; P.L.201-2011, SEC.11.

IC 31-31-4-3

Qualifications

Sec. 3. A person appointed as a part-time juvenile court referee under this chapter must be admitted to the practice of law in Indiana.

As added by P.L.1-1997, SEC.14.

IC 31-31-4-4

Funding for salaries

Sec. 4. The salary of a part-time juvenile court referee appointed under this chapter shall be paid from juvenile probation user's fees under IC 31-40-2 upon the approval of the county fiscal body.

As added by P.L.1-1997, SEC.14.

IC 31-31-4-5

Duties

Sec. 5. A part-time juvenile court referee shall perform the duties described in IC 31-31-3-6.

As added by P.L.1-1997, SEC.14.

IC 31-31-5

Chapter 5. Juvenile Court Probation Officers

IC 31-31-5-1

Appointment of probation officers and other employees

Sec. 1. The judge of the juvenile court shall appoint a chief probation officer and may appoint other probation officers and an appropriate number of other employees to assist the probation department.

As added by P.L.1-1997, SEC.14.

IC 31-31-5-2

Compensation; travel expenses

Sec. 2. (a) The salary of a probation officer shall be fixed by the county fiscal body in accordance with the salary schedule adopted by the county fiscal body under IC 36-2-16.5. The salary of a probation officer shall be paid by the county.

(b) Subject to the approval of the county fiscal body, the judge shall fix and the county shall pay the salaries of juvenile court employees other than probation officers.

(c) In addition to their annual salary, probation officers shall be reimbursed for any necessary travel expenses incurred in the performance of their duties in accordance with the law governing state officers and employees.

As added by P.L.1-1997, SEC.14. Amended by P.L.277-2003, SEC.3.

IC 31-31-5-3

Duties of chief probation officer

Sec. 3. The chief probation officer, under the direction of the juvenile court, shall supervise the work of the probation department.

As added by P.L.1-1997, SEC.14.

IC 31-31-5-4

Duties of probation officers

Sec. 4. A probation officer shall, for the purpose of carrying out the juvenile law:

(1) conduct such investigations and prepare such reports and recommendations as the court directs and keep a written record of those investigations, reports, and recommendations;

(2) receive and examine complaints and allegations concerning matters covered by the juvenile law and make preliminary inquiries and investigations;

(3) implement informal adjustments;

(4) prepare and submit the predisposition report required for a dispositional hearing under the juvenile law;

(5) supervise and assist by all suitable methods a child placed on probation or in the probation officer's care by order of the court or other legal authority;

(6) keep complete records of the probation officer's work and comply with any order of the court concerning the collection,

protection, and distribution of any money or other property coming into the probation officer's hands; and

(7) perform such other functions as are designated by the juvenile law or by the court in accordance with the juvenile law.

As added by P.L.1-1997, SEC.14.

IC 31-31-5-5

Enforcement powers

Sec. 5. Except for carrying a handgun as authorized under IC 11-13-1-3.5, a probation officer does not have the powers of a law enforcement officer.

As added by P.L.1-1997, SEC.14. Amended by P.L.45-2001, SEC.4.

IC 31-31-6

Chapter 6. Juvenile Court Reporter

IC 31-31-6-1

Reporter; manner of reporting

Sec. 1. (a) The reporter of the court having juvenile jurisdiction serves as the reporter for the juvenile court.

(b) The reporter of the court shall report the proceedings of the juvenile court in the same manner and under the same laws governing reporters for other courts of record.

As added by P.L.1-1997, SEC.14.

IC 31-31-7

Chapter 7. Guardian Ad Litem or Court Appointed Special Advocate Services

IC 31-31-7-1

Joint or multiple county guardian ad litem or court appointed special advocate services

Sec. 1. Juvenile courts situated in adjacent counties may establish joint or multiple county guardian ad litem or court appointed special advocate services to carry out IC 31-34 and IC 31-37.

As added by P.L.1-1997, SEC.14.

IC 31-31-7-2

Contract to provide guardian ad litem or court appointed special advocate services

Sec. 2. A juvenile court may contract to provide guardian ad litem or court appointed special advocate services for purposes of carrying out IC 31-34 and IC 31-37.

As added by P.L.1-1997, SEC.14.

IC 31-31-8

Chapter 8. Juvenile Detention and Shelter Care Facilities

IC 31-31-8-1

Inapplicability of chapter to shelter care facilities operated by other governmental entities

Sec. 1. This chapter does not apply to a shelter care facility operated by a governmental entity other than a juvenile court.

As added by P.L.1-1997, SEC.14.

IC 31-31-8-2

Juvenile detention facility; criteria

Sec. 2. A juvenile detention facility is a secure facility that:

(1) is only used for the lawful custody and treatment of juveniles and meets state standards and licensing requirements as provided in department of correction rule 210 IAC 6; or

(2) is located on the same grounds or in the same building as an adult jail or lockup and meets the following four (4) criteria:

(A) Total separation between juvenile and adult facility spatial areas so that there could be no haphazard or accidental contact among juvenile and adult residents in the respective facilities. If space is used for both juveniles and adults, time-phasing of the use is acceptable if the arrangement precludes haphazard or accidental contact among juvenile and adult residents at all times. Sleeping or other living areas may not be shared under any circumstances.

(B) Total separation in all juvenile and adult program activities within the facilities, including recreation, education, counseling, health care, dining, sleeping, and general living activities. Program activities may not be shared by juvenile and adult residents. However, program space, equipment, and other resources may be used by both juvenile and adult residents subject to clause (A).

(C) The administration and security functions of the juvenile detention program must be vested in separate staff who, if the staff serve both populations, are trained to serve a juvenile population. Security and other direct care staff may not be used to serve the adult jail at the same time or during the same tour of duty that security and other direct care staff serve in the juvenile detention facility. Specialized services staff, such as cooks, bookkeepers, and medical professionals who are not normally in contact with detainees or whose infrequent contact occurs under conditions of separation of juveniles and adults, can serve both juvenile and adult residents.

(D) The facility meets state standards and licensing requirements as provided in department of correction rule 210 IAC 6. The architectural and operational configuration of the juvenile facility must assure total separation.

As added by P.L.1-1997, SEC.14.

IC 31-31-8-3
Provision of juvenile detention and shelter care facilities; staff; budget; expenses

Sec. 3. (a) The juvenile court may establish juvenile detention and shelter care facilities for children, except as provided by IC 31-31-9.

(b) The court may contract with other agencies to provide juvenile detention and shelter care facilities.

(c) If the juvenile court operates the juvenile detention and shelter care facilities, the judge shall appoint staff and determine the budgets.

(d) The county shall pay all expenses. The expenses for the juvenile detention facility shall be paid from the county general fund.
As added by P.L.1-1997, SEC.14. Amended by P.L.273-1999, SEC.96; P.L.146-2008, SEC.572.

IC 31-31-8-4
Operation and budget of juvenile detention or juvenile shelter care facility in certain counties

Sec. 4. (a) This section applies to a county having a population of more than one hundred eleven thousand (111,000) but less than one hundred fifteen thousand (115,000).

(b) Notwithstanding section 3 of this chapter, the juvenile court shall operate a juvenile detention facility or juvenile shelter care facility established in the county. However, the county legislative body shall determine the budget for the juvenile detention facility or juvenile shelter care facility. The expenses for the juvenile detention facility shall be paid from the county general fund.
As added by P.L.1-1997, SEC.14. Amended by P.L.273-1999, SEC.97; P.L.170-2002, SEC.130; P.L.146-2008, SEC.573; P.L.119-2012, SEC.160.

IC 31-31-8-5
Rules

Sec. 5. (a) Juvenile detention facilities shall be operated in accordance with rules adopted by the department of correction.

(b) Shelter care facilities shall be operated in accordance with rules adopted by the department of child services under IC 31-27.
As added by P.L.1-1997, SEC.14. Amended by P.L.145-2006, SEC.276.

IC 31-31-8-6
Advisory committee

Sec. 6. The judge may appoint an advisory committee to review the operations of each facility, except as provided by IC 31-31-9.
As added by P.L.1-1997, SEC.14.

IC 31-31-9

Chapter 9. Juvenile Detention Facilities in Marion County

IC 31-31-9-1

Application of chapter

Sec. 1. This chapter applies to a county having a consolidated city.

As added by P.L.1-1997, SEC.14.

IC 31-31-9-1.5

"Executive committee"

Sec. 1.5. As used in this chapter, "executive committee" means the executive committee elected under IC 33-33-49-14.

As added by P.L.142-2007, SEC.1.

IC 31-31-9-2

Operation and maintenance

Sec. 2. The executive committee shall operate and maintain all juvenile detention centers located within the county.

As added by P.L.1-1997, SEC.14. Amended by P.L.142-2007, SEC.2.

IC 31-31-9-3

Rules; annual inspections and reports

Sec. 3. (a) The juvenile detention center shall be operated in accordance with rules adopted by the department of correction.

(b) The department of child services shall make an annual inspection of the center and report to the advisory board whether the center meets the requirements established by the state department of health for temporary detention centers. Any noncompliance with those requirements must be stated in writing to the advisory board.

As added by P.L.1-1997, SEC.14. Amended by P.L.145-2006, SEC.277.

IC 31-31-9-4

Admission to juvenile detention center

Sec. 4. The executive committee, after soliciting the views of the advisory board described in section 8 of this chapter, shall establish criteria for admission to the juvenile detention center. The power to order admission to the center remains with the court.

As added by P.L.1-1997, SEC.14. Amended by P.L.142-2007, SEC.3.

IC 31-31-9-5

Superintendent; appointment; term of office

Sec. 5. The executive committee shall appoint a superintendent of juvenile detention centers located in the county. The superintendent serves at the pleasure of the executive committee.

As added by P.L.1-1997, SEC.14. Amended by P.L.142-2007, SEC.4.

IC 31-31-9-6

Superintendent; duties

Sec. 6. Under the direction of the executive committee, the

superintendent shall do the following:

(1) Supervise the operations of the juvenile detention centers so as to provide sound physical care in compliance with state, county, and other health requirements.

(2) Coordinate a program of constructive activities.

(3) Administer sound, fair, and impartial employment practices.

(4) Supervise employees of the juvenile detention center.

(5) Promote good public relations within the community.

(6) Make necessary written reports to the juvenile court judge and the executive committee regarding transfers, escapes, or destruction of center property.

(7) Make an annual inspection of the juvenile detention center and report in writing to the juvenile court judge and the executive committee any noncompliance with standards established by the commission on accreditation for corrections.

(8) Perform all other duties assigned by the executive committee.

As added by P.L.1-1997, SEC.14. Amended by P.L.142-2007, SEC.5.

IC 31-31-9-7

Advisory board; duties; rules

Sec. 7. (a) The juvenile detention center advisory board shall:

(1) review the operations of juvenile detention centers located within the county; and

(2) advise the executive committee and the juvenile court judge on matters relating to the detention of juveniles in the county.

(b) The advisory board may adopt rules and bylaws for the management and regulation of the advisory board's affairs, and may do all things necessary and convenient to carry out this chapter.

As added by P.L.1-1997, SEC.14. Amended by P.L.142-2007, SEC.6.

IC 31-31-9-8

Advisory board; members; appointment; qualifications

Sec. 8. (a) The advisory board consists of the following seven (7) members:

(1) Two (2) members, appointed by the executive committee, who are not members of the same political party.

(2) Two (2) members, appointed by the mayor of the consolidated city, who are not members of the same political party.

(3) Three (3) members, appointed by the council, not more than two (2) of whom may be members of the same political party.

(b) Members of the advisory board must be residents of the county who have demonstrated an interest in and knowledge of the juvenile justice system.

As added by P.L.1-1997, SEC.14. Amended by P.L.142-2007, SEC.7.

IC 31-31-9-9

Advisory board; terms of office; vacancies; reappointment; removal

Sec. 9. (a) Terms of office for members of the advisory board are three (3) years. Terms of office begin on January 1 of the first year and end on December 31 of the third year.

(b) Vacancies in the membership of the advisory board shall be filled in the same manner as original appointments. Appointments made to fill vacancies that occur before expiration of a term are for the remainder of the unexpired term.

(c) Members of the advisory board may be reappointed for one (1) additional term.

(d) All members of the advisory board serve until their successors have been appointed.

(e) An advisory board member may be removed for good cause by the appointing authority. Good cause includes disability, inefficiency, neglect of duty, or malfeasance.

As added by P.L.1-1997, SEC.14.

IC 31-31-9-10
Annual budget

Sec. 10. The executive committee shall annually prepare the detention center budget and forward the budget to the county fiscal officer in accordance with IC 36-3-6-4.

As added by P.L.1-1997, SEC.14. Amended by P.L.142-2007, SEC.8.

IC 31-31-9-11
Expenses

Sec. 11. All expenses for the operation of the juvenile detention center shall be paid out of the county general fund.

As added by P.L.1-1997, SEC.14.

IC 31-31-10

Chapter 10. Reports on Services Provided to Delinquent Children and Children in Need of Services

IC 31-31-10-1

Maintenance of information

Sec. 1. The probation department for the juvenile court shall maintain information relating to delinquent children and children in need of services who receive juvenile law services.

As added by P.L.55-1997, SEC.13.

IC 31-31-10-2

Report on delinquent children and children in need; filing; contents

Sec. 2. (a) Each probation department shall, not later than October 1 of each year, file a report with the division of state court administration that includes the information the probation department is required to maintain under section 1 of this chapter.

(b) The report under subsection (a) must:

(1) cover the previous state fiscal year; and

(2) include at least the following:

(A) The number of delinquent children and children in need of services who received juvenile law services.

(B) Demographic information relating to the delinquent children and children in need of services who received juvenile law services.

(C) All financial information relating to juvenile law services provided to delinquent children and children in need of services.

As added by P.L.55-1997, SEC.13.

IC 31-32

ARTICLE 32. JUVENILE LAW: JUVENILE COURT PROCEDURES

IC 31-32-1

Chapter 1. Applicable Rules of Procedure

IC 31-32-1-1

Applicability of rules governing criminal trials

Sec. 1. If a child is alleged to be a delinquent child, the procedures governing criminal trials apply in all matters not covered by the juvenile law.

As added by P.L.1-1997, SEC.15.

IC 31-32-1-2

Applicability of laws governing criminal trials

Sec. 2. If a person is charged with a crime, the laws governing criminal trials apply.

As added by P.L.1-1997, SEC.15.

IC 31-32-1-3

Applicability of Indiana Rules of Trial Procedure

Sec. 3. In cases not subject to section 1 or 2 of this chapter, the Indiana Rules of Trial Procedure apply in all matters not covered by the juvenile law.

As added by P.L.1-1997, SEC.15.

IC 31-32-1-4

Hearing notices regarding CHINS or delinquent cases

Sec. 4. (a) Any written notice of a hearing or other court proceeding in a child in need of services case under IC 31-34 or a delinquency case under IC 31-37 shall be given to:

(1) a party in the manner provided by Rule 5 of the Indiana Rules of Trial Procedure; or

(2) an individual who is not a party by:

(A) personal delivery to the individual; or

(B) mail as provided in Rule 5(B)(2) of the Indiana Rules of Trial Procedure.

(b) Notice by mail must be deposited in the United States mail not less than five (5) calendar days (excluding Saturdays, Sundays, and national legal holidays recognized by the federal government) before the date of the scheduled hearing or proceeding.

(c) Written notice may be given by either:

(1) a copy of a court order or docket entry; or

(2) a letter addressed to the individual required to be notified;

that states the date, time, and purpose of the hearing or proceeding.

(d) Written notice is not required if verbal notice of the date, time, place, and purpose of the hearing or proceeding is given by the court at an earlier hearing or proceeding at which the individual to be notified is present.

(e) Written notice is not required if:

(1) the hearing or proceeding is scheduled to be held at a time within forty eight (48) hours (excluding Saturdays, Sundays, and any day on which a legal holiday is observed for state employees) after the court sets the time for the hearing or proceeding; and

(2) the individual responsible for giving the notice under this section:

(A) provides verbal notice of the date, time, place, and purpose of the hearing or proceeding directly to the person required to be notified; and

(B) verifies by affidavit or testimony at the hearing that verbal notice was given as required under this subsection.

(f) Except as provided in subsection (d):

(1) the department is responsible for giving all notices of a hearing or proceeding in a child in need of services case under IC 31-34; and

(2) the prosecuting attorney or the probation department of the juvenile court is responsible for giving all notices of a hearing or proceeding in a delinquency case under IC 31-37.

As added by P.L.138-2007, SEC.64.

IC 31-32-2

Chapter 2. Rights of Persons Subject to Juvenile Court Jurisdiction

IC 31-32-2-1

Rights of child

Sec. 1. Except when a child may be excluded from a hearing under IC 31-32-6, a child is entitled to:

(1) cross-examine witnesses;

(2) obtain witnesses or tangible evidence by compulsory process; and

(3) introduce evidence on the child's own behalf.

As added by P.L.1-1997, SEC.15.

IC 31-32-2-2

Additional rights of child charged with delinquent act

Sec. 2. In addition to the rights described in section 1 of this chapter, a child charged with a delinquent act is also entitled to:

(1) be represented by counsel under IC 31-32-4;

(2) refrain from testifying against the child; and

(3) confront witnesses.

As added by P.L.1-1997, SEC.15.

IC 31-32-2-2.5

Privileged statements made to a mental health evaluator; exceptions

Sec. 2.5. (a) This section applies only to a court ordered or voluntary mental health:

(1) screening;

(2) assessment;

(3) evaluation; or

(4) treatment;

provided by or under the direction of an evaluator, as defined in IC 31-9-2-43.8, in conjunction with proceedings under this article.

(b) Except as provided in subsection (d) and except for purposes of:

(1) a probation revocation proceeding; or

(2) a modification of a dispositional decree under IC 31-37-22;

a statement communicated to an evaluator in the evaluator's official capacity may not be admitted as evidence against the child on the issue of whether the child committed a delinquent act or a crime.

(c) This section does not affect the admissibility of evidence when a juvenile interposes the defense of insanity.

(d) This section does not affect a disclosure or reporting requirement in effect on July 1, 2007, under statute or in case law regarding a statement that:

(1) relates directly to the facts or immediate circumstances of a homicide; or

(2) reveals that the child may intend to commit a crime.

As added by P.L.120-2007, SEC.3.

IC 31-32-2-3
Rights of parent, guardian, or custodian

Sec. 3. (a) This section applies to the following proceedings:

(1) Proceedings to determine whether a child is a child in need of services.

(2) Proceedings to determine whether the parent, guardian, or custodian of a child should participate in a program of care, treatment, or rehabilitation for the child.

(3) Proceedings to determine whether the parent or guardian of the estate of a child should be held financially responsible for any services provided to the parent or guardian or the child of the parent or guardian.

(4) Proceedings to terminate the parent-child relationship.

(b) A parent, guardian, or custodian is entitled:

(1) to cross-examine witnesses;

(2) to obtain witnesses or tangible evidence by compulsory process; and

(3) to introduce evidence on behalf of the parent, guardian, or custodian.

As added by P.L.1-1997, SEC.15.

IC 31-32-2-4
Waiver to court having criminal jurisdiction; requirement for criminal charge or conviction

Sec. 4. A child may not be charged with or convicted of a crime, except a crime excluded by IC 31-30-1, unless the child has been waived to a court having criminal jurisdiction.

As added by P.L.1-1997, SEC.15.

IC 31-32-2-5
Parent's right to representation by counsel

Sec. 5. A parent is entitled to representation by counsel in proceedings to terminate the parent-child relationship.

As added by P.L.1-1997, SEC.15.

IC 31-32-2-6
Adjudication not considered criminal conviction; civil disability not imposed

Sec. 6. (a) A child may not be considered a criminal as the result of an adjudication in a juvenile court, nor may an adjudication in juvenile court be considered a conviction of a crime.

(b) An adjudication in juvenile court does not impose any civil disability imposed by conviction of a crime.

As added by P.L.1-1997, SEC.15.

IC 31-32-2-7
Contact with juvenile justice system not disqualification from governmental application, examination, or appointment

Sec. 7. A child's contact with the juvenile justice system does not disqualify the child from any governmental application, examination,

or appointment.
As added by P.L.1-1997, SEC.15.

IC 31-32-3

Chapter 3. Guardians Ad Litem and Court Appointed Special Advocates

IC 31-32-3-1

Appointment

Sec. 1. (a) The juvenile court may appoint a guardian ad litem or a court appointed special advocate, or both, for the child at any time.

(b) The juvenile court may appoint an early intervention advocate for a child who is participating in a preventative program for at-risk children that has been established by the court under section 11 of this chapter.

As added by P.L.1-1997, SEC.15. Amended by P.L.183-2011, SEC.5.

IC 31-32-3-2

Persons ineligible for appointment

Sec. 2. A court may not appoint a party to the proceedings, an employee of a party to the proceedings, or a representative of a party to the proceedings as the:

(1) guardian ad litem;
(2) court appointed special advocate;
(3) guardian ad litem program; or
(4) court appointed special advocate program;

for a child involved in the proceedings.

As added by P.L.1-1997, SEC.15.

IC 31-32-3-3

Appointment of child's attorney as guardian ad litem or court appointed special advocate

Sec. 3. A guardian ad litem or court appointed special advocate need not be an attorney, but the attorney representing the child may be appointed the child's guardian ad litem or court appointed special advocate.

As added by P.L.1-1997, SEC.15.

IC 31-32-3-4

Representation by attorney

Sec. 4. The guardian ad litem or the court appointed special advocate may be represented by an attorney.

As added by P.L.1-1997, SEC.15.

IC 31-32-3-5

Court appointment of attorney

Sec. 5. If necessary to protect the child's interests, the court may appoint an attorney to represent the guardian ad litem or the court appointed special advocate. The court may only appoint one (1) attorney under this section.

As added by P.L.1-1997, SEC.15.

IC 31-32-3-6

Representation of best interests of child

Sec. 6. A guardian ad litem or court appointed special advocate shall represent and protect the best interests of the child.

As added by P.L.1-1997, SEC.15.

IC 31-32-3-7

Officers of the court

Sec. 7. The guardian ad litem or the court appointed special advocate, or both, shall be considered officers of the court for the purpose of representing the child's interests.

As added by P.L.1-1997, SEC.15.

IC 31-32-3-8

Term of appointment

Sec. 8. (a) A guardian ad litem or court appointed special advocate serves until the juvenile court enters an order for discharge under IC 31-34-21-11 or IC 31-37-20-7.

(b) An early intervention advocate serves until the plan developed for an at-risk child under section 11 of this chapter has been terminated.

As added by P.L.1-1997, SEC.15. Amended by P.L.183-2011, SEC.6.

IC 31-32-3-9

Fees

Sec. 9. If any fees arise, payment shall be made under IC 31-40.

As added by P.L.1-1997, SEC.15.

IC 31-32-3-10

Civil immunity; employee of or volunteer for an early intervention advocate; preventative program staff member

Sec. 10. Except for gross misconduct, if:

(1) a guardian ad litem;

(2) a court appointed special advocate;

(3) an employee of a county guardian ad litem or court appointed special advocate program;

(4) a volunteer for a county guardian ad litem or court appointed special advocate program;

(5) an early intervention advocate; or

(6) an employee of or volunteer for an early intervention advocate or staff member of a preventative program established by the court under section 11 of this chapter;

performs the person's duties in good faith, the person is immune from any civil liability that may occur as a result of that person's performance during the time that the person is acting within the scope of the person's duties.

As added by P.L.1-1997, SEC.15. Amended by P.L.183-2011, SEC.7.

IC 31-32-3-11

Voluntary preventative program for at-risk children; criminal history check of staff and early intervention advocate; authorized

actions; confidential information; request for assistance; civil and criminal immunity

Sec. 11. (a) A juvenile court may establish a voluntary preventative program for at-risk children.

(b) A juvenile court that establishes a program under subsection (a) may, after conducting a criminal history check of every individual who is likely to have contact with a child, appoint staff and an early intervention advocate to implement, coordinate, and carry out the purposes of the program. The court may not appoint an individual under this subsection if the results of the criminal history check disclose that the individual has a record of:

(1) a conviction for a felony;

(2) a conviction for a misdemeanor relating to the health and safety of a child; or

(3) a juvenile adjudication for an act that, if committed by an adult, would be a felony listed in IC 31-27-4-13(a).

(c) The program staff or an early intervention advocate appointed under subsection (b) may:

(1) receive information concerning an at-risk child from any person; and

(2) use the information received under subdivision (1) to create, implement, and maintain an individualized plan for the at-risk child and the child's family if the child's parent, guardian, or custodian has consented to the participation of the child in the program. The individualized plan created under this subdivision may include a program of counseling, tutoring, or mentoring.

(d) All information received under the program by the program staff or an early intervention advocate:

(1) is confidential; and

(2) may be disclosed only to the following:

(A) Program staff or an early intervention advocate appointed to the program under subsection (b).

(B) Any person or entity engaged by a person described in clause (A) in creating, implementing, and maintaining a plan for an at-risk child and the child's family.

(C) The juvenile court.

(e) The privileged communication between:

(1) a husband and wife;

(2) a health care provider and the health care provider's patient;

(3) a juvenile client and a:

(A) licensed social worker;

(B) licensed clinical social worker;

(C) licensed marriage and family therapist;

(D) licensed mental health counselor;

(E) licensed addiction counselor; or

(F) licensed clinical addiction counselor;

(4) a school counselor and a student; or

(5) a school psychologist and a student;

may not prevent an individual described in this subsection from reporting to, requesting assistance from, or cooperating with program

staff or an early intervention advocate under this section.

(f) Any individual may request that a child receive assistance under a program established under subsection (a) if the individual believes a child may be an at-risk child.

(g) After receiving a request that a child receive assistance under a program described in subsection (a), or after receiving information that a child may be an at-risk child, program staff or an early intervention advocate shall determine whether the child would benefit from the program. If the program staff or early intervention advocate determines that the child would benefit from the program, the staff or early intervention advocate shall inform the parent, guardian, or custodian of the determination and request that the parent, guardian, or custodian permit the child to participate in the program. The child (and the parent, guardian, or custodian) may participate in the program only with the consent of the parent, guardian, or custodian.

(h) A person who:

(1) makes a good faith request under subsection (f);

(2) in good faith provides information concerning a child to program staff or an early intervention advocate appointed under subsection (b); or

(3) in good faith participates in a plan under this section;

is immune from civil or criminal liability.

(i) Except as provided under IC 31-33-5, no information received under the program by the program staff or an early intervention advocate may be used against the child in a criminal or civil proceeding.

As added by P.L.183-2011, SEC.8.

IC 31-32-4

Chapter 4. Right to Counsel

IC 31-32-4-1

Persons entitled to representation by counsel

Sec. 1. The following persons are entitled to be represented by counsel:

(1) A child charged with a delinquent act, as provided by IC 31-32-2-2.

(2) A parent, in a proceeding to terminate the parent-child relationship, as provided by IC 31-32-2-5.

(3) Any other person designated by law.

As added by P.L.1-1997, SEC.15.

IC 31-32-4-2

Court appointment of counsel to represent child

Sec. 2. (a) If:

(1) a child alleged to be a delinquent child does not have an attorney who may represent the child without a conflict of interest; and

(2) the child has not lawfully waived the child's right to counsel under IC 31-32-5 (or IC 31-6-7-3 before its repeal);

the juvenile court shall appoint counsel for the child at the detention hearing or at the initial hearing, whichever occurs first, or at any earlier time.

(b) The court may appoint counsel to represent any child in any other proceeding.

As added by P.L.1-1997, SEC.15.

IC 31-32-4-3

Court appointment of counsel to represent parent

Sec. 3. (a) If:

(1) a parent in proceedings to terminate the parent-child relationship does not have an attorney who may represent the parent without a conflict of interest; and

(2) the parent has not lawfully waived the parent's right to counsel under IC 31-32-5 (or IC 31-6-7-3 before its repeal);

the juvenile court shall appoint counsel for the parent at the initial hearing or at any earlier time.

(b) The court may appoint counsel to represent any parent in any other proceeding.

As added by P.L.1-1997, SEC.15.

IC 31-32-4-4

Payment for counsel

Sec. 4. Payment for counsel shall be made under IC 31-40.

As added by P.L.1-1997, SEC.15.

IC 31-32-5

Chapter 5. Waiver of Rights

IC 31-32-5-1

Waiver of rights guaranteed to child

Sec. 1. Any rights guaranteed to a child under the Constitution of the United States, the Constitution of the State of Indiana, or any other law may be waived only:

(1) by counsel retained or appointed to represent the child if the child knowingly and voluntarily joins with the waiver;

(2) by the child's custodial parent, guardian, custodian, or guardian ad litem if:

(A) that person knowingly and voluntarily waives the right;

(B) that person has no interest adverse to the child;

(C) meaningful consultation has occurred between that person and the child; and

(D) the child knowingly and voluntarily joins with the waiver; or

(3) by the child, without the presence of a custodial parent, guardian, or guardian ad litem, if:

(A) the child knowingly and voluntarily consents to the waiver; and

(B) the child has been emancipated under IC 31-34-20-6 or IC 31-37-19-27, by virtue of having married, or in accordance with the laws of another state or jurisdiction.

As added by P.L.1-1997, SEC.15.

IC 31-32-5-2

Child's waiver of right to meaningful consultation

Sec. 2. The child may waive the child's right to meaningful consultation under section 1(2)(C) of this chapter if:

(1) the child is informed of that right;

(2) the child's waiver is made in the presence of the child's custodial parent, guardian, custodian, guardian ad litem, or attorney; and

(3) the waiver is made knowingly and voluntarily.

As added by P.L.1-1997, SEC.15.

IC 31-32-5-3

Admissibility of excluded statement for impeachment purposes

Sec. 3. If:

(1) a statement made knowingly and voluntarily cannot be admitted as evidence against a child because of failure to meet the requirements of section 1 of this chapter; and

(2) the child testifies in the child's own defense;

the statement may be admitted to impeach the child as a witness in the same manner as evidence of any other prior inconsistent statement can be admitted for impeachment.

As added by P.L.1-1997, SEC.15.

IC 31-32-5-4
Waiver of rights during custodial interrogation

Sec. 4. In determining whether any waiver of rights during custodial interrogation was made knowingly and voluntarily, the juvenile court shall consider all the circumstances of the waiver, including the following:

(1) The child's physical, mental, and emotional maturity.

(2) Whether the child or the child's parent, guardian, custodian, or attorney understood the consequences of the child's statements.

(3) Whether the child and the child's parent, guardian, or custodian had been informed of the delinquent act with which the child was charged or of which the child was suspected.

(4) The length of time the child was held in custody before consulting with the child's parent, guardian, or custodian.

(5) Whether there was any coercion, force, or inducement.

(6) Whether the child and the child's parent, guardian, or custodian had been advised of the child's right to remain silent and to the appointment of counsel.

As added by P.L.1-1997, SEC.15.

IC 31-32-5-5
Parent's waiver of right to representation by counsel

Sec. 5. A parent who is entitled to representation by counsel may waive that right if the parent does so knowingly and voluntarily.

As added by P.L.1-1997, SEC.15.

IC 31-32-5-6
Waiver of service of summons

Sec. 6. Any person other than the child may waive service of summons if the person does so in writing.

As added by P.L.1-1997, SEC.15.

IC 31-32-5-7
Waiver of right of parent, guardian, or custodian to be present at hearing concerning child

Sec. 7. The right of a parent, guardian, or custodian to be present at any hearing concerning the person's child is waived by the person's failure to appear after lawful notice.

As added by P.L.1-1997, SEC.15.

IC 31-32-6

Chapter 6. Trial in Open Court; Jury Trial

IC 31-32-6-1

Adults charged with contempt or criminal charges

Sec. 1. All proceedings in the juvenile court involving adults charged with:

(1) contempt of court; or

(2) criminal charges;

shall be tried in open court.

As added by P.L.1-1997, SEC.15.

IC 31-32-6-2

Exclusion of public

Sec. 2. The juvenile court shall determine whether the public should be excluded from a proceeding other than a juvenile proceeding described in section 3 of this chapter.

As added by P.L.1-1997, SEC.15.

IC 31-32-6-3

Certain delinquency proceedings open to public

Sec. 3. Except as provided in section 4 of this chapter, a delinquency proceeding is open to the public whenever a petition alleging that the child has committed an act that would be murder or a felony if committed by an adult is filed under IC 31-37-10.

As added by P.L.1-1997, SEC.15.

IC 31-32-6-4

Closing of proceeding to protect child witness or child victim; motion

Sec. 4. (a) Upon motion of the prosecuting attorney, the child, or the child's guardian ad litem, counsel, parent, guardian, or custodian, the court may issue an order closing a proceeding during the testimony of a child witness or child victim if the court finds that:

(1) an allegation or a defense involves matters of a sexual nature; and

(2) closing the proceeding is necessary to protect the welfare of a child witness or child victim.

(b) Upon motion of the prosecuting attorney, the child, or the child's guardian ad litem, counsel, parent, guardian, or custodian, the court may issue an order closing a proceeding during the testimony of a health care provider if the court finds that:

(1) the testimony involves matters that would be protected under 45 CFR Parts 160 and 164 (Health Insurance Portability and Accountability Act of 1996 (HIPAA)); or

(2) the testimony involves matters that would be a privileged communication between a health care provider and the health care provider's patient.

(c) Upon motion of the prosecuting attorney, the child, or the child's guardian ad litem, counsel, parent, guardian, or custodian, the

court may issue an order closing a proceeding during the testimony of:

(1) a:

(A) certified social worker;

(B) certified clinical social worker; or

(C) certified marriage and family therapist;

regarding a client;

(2) a school counselor regarding a student; or

(3) a school psychologist regarding a student.

As added by P.L.1-1997, SEC.15. Amended by P.L.170-2009, SEC.11.

IC 31-32-6-5

Closing of proceeding to protect child witness or child victim; factors

Sec. 5. In determining whether closing a proceeding is necessary to protect the welfare of a child witness or child victim, the court shall consider the following:

(1) The nature of the allegation or defense.

(2) The age of a child witness or child victim.

(3) The psychological maturity of a child witness or child victim.

(4) The desire of a child witness or child victim to testify in a proceeding closed to the public.

As added by P.L.1-1997, SEC.15.

IC 31-32-6-6

Closing of proceeding to protect child witness or child victim; findings; filing of exclusion order

Sec. 6. If a proceeding is closed to the public under section 4 of this chapter, the juvenile court shall:

(1) make findings of fact concerning the closing of the proceeding; and

(2) place the exclusion order in the file of the proceedings.

As added by P.L.1-1997, SEC.15.

IC 31-32-6-7

Bench trials; jury trial for adult charged with crime

Sec. 7. (a) Except as provided in subsection (b), all matters in juvenile court shall be tried to the court.

(b) A trial of an adult charged with a crime shall be tried to a jury unless the adult requests a bench trial.

As added by P.L.1-1997, SEC.15.

IC 31-32-6-8

Exclusion of child

Sec. 8. In proceedings involving:

(1) the termination of the parent-child relationship; or

(2) a child in need of services;

the child may be excluded from any part of any hearing for good

cause shown upon the record.
As added by P.L.1-1997, SEC.15.

IC 31-32-7
Chapter 7. Venue

IC 31-32-7-1
Venue of proceedings

Sec. 1. If a child is alleged to be a delinquent child or a child in need of services, proceedings under the juvenile law may be commenced in the county:

(1) where the child resides;
(2) where the act occurred; or
(3) where the condition exists.

As added by P.L.1-1997, SEC.15.

IC 31-32-7-2
Change of venue

Sec. 2. A change of venue from the county may not be granted except under section 3 of this chapter.

As added by P.L.1-1997, SEC.15.

IC 31-32-7-3
Assignment of case or supervision of child to county of child's residence

Sec. 3. (a) Upon:

(1) the juvenile court's own motion;
(2) the motion of a child; or
(3) the motion of the child's parent, guardian, or custodian;

the juvenile court may assign a case to a juvenile court in the county of a child's residence at any time before the dispositional hearing.

(b) Supervision of a child may be assigned to a juvenile court in the county of the child's residence.

(c) The assigning court shall send to the receiving court certified copies of all documents pertaining to the case.

As added by P.L.1-1997, SEC.15.

IC 31-32-8

Chapter 8. Change of Judge

IC 31-32-8-1

Affidavit; time for filing

Sec. 1. Except as provided in section 2 of this chapter, a change of judge may be granted only for good cause shown by affidavit filed at least twenty-four (24) hours before the fact-finding hearing.

As added by P.L.1-1997, SEC.15.

IC 31-32-8-2

Proceedings to terminate parent-child relationship with individual convicted of criminal offense

Sec. 2. The judge who presided over the trial at which an individual was convicted of an offense listed in IC 31-35-3-4 may not be the judge who presides over the proceedings in an action filed under IC 31-35-3 with respect to that individual.

As added by P.L.1-1997, SEC.15.

IC 31-32-9
Chapter 9. Service of Summons

IC 31-32-9-1
Manner of service

Sec. 1. (a) Service may be made upon any person under Rule 4.1 of the Indiana Rules of Trial Procedure.

(b) Personal service must be made at least three (3) days before the hearing to which the person is summoned.

(c) Service by mail must be sent at least ten (10) days before the hearing.

(d) Service of summons is not required if the person entitled to be served attends the hearing.

As added by P.L.1-1997, SEC.15.

IC 31-32-9-2
Service by publication

Sec. 2. (a) If any person other than the child cannot be served in accordance with Rule 4.1 of the Indiana Rules of Trial Procedure, the juvenile court may order service by publication in accordance with Rule 4.13 of the Indiana Rules of Trial Procedure. However, the summons must clearly inform the person being served that the person must respond not later than ten (10) days after the last publication.

(b) If:

(1) the action is to terminate the parent-child relationship; and

(2) the parent cannot be served in accordance with Rule 4.1 of the Indiana Rules of Trial Procedure;

service must be made by publication.

As added by P.L.1-1997, SEC.15.

IC 31-32-10
Chapter 10. Discovery

IC 31-32-10-1
Criminal discovery procedures; delinquency proceedings
Sec. 1. In cases in which a child is alleged to be a delinquent child, the law of discovery for criminal cases applies.
As added by P.L.1-1997, SEC.15.

IC 31-32-10-2
Criminal discovery procedures; adult criminal proceedings
Sec. 2. In cases in which an adult is charged with a crime, the law of discovery for criminal cases applies.
As added by P.L.1-1997, SEC.15.

IC 31-32-10-3
Civil discovery procedures
Sec. 3. In cases other than those described by section 1 or 2 of this chapter, the law of discovery for civil cases applies.
As added by P.L.1-1997, SEC.15.

IC 31-32-11
Chapter 11. Evidence

IC 31-32-11-1
Admissibility of privileged communications

Sec. 1. The privileged communication between:
(1) a husband and wife;
(2) a health care provider and the health care provider's patient;
(3) a:
(A) licensed social worker;
(B) licensed clinical social worker;
(C) licensed marriage and family therapist;
(D) licensed mental health counselor;
(E) licensed addiction counselor; or
(F) licensed clinical addiction counselor;
and a client of any of the professionals described in clauses (A) through (F);
(4) a school counselor and a student; or
(5) a school psychologist and a student;
is not a ground for excluding evidence in any judicial proceeding resulting from a report of a child who may be a victim of child abuse or neglect or relating to the subject matter of the report or failing to report as required by IC 31-33.
As added by P.L.1-1997, SEC.15. Amended by P.L.122-2009, SEC.30.

IC 31-32-12

Chapter 12. Mental or Physical Examinations

IC 31-32-12-1

Mental or physical examination or treatment

Sec. 1. If the procedures under IC 31-32-13 are followed, the juvenile court may authorize mental or physical examinations or treatment under the following circumstances:

(1) If the court has not authorized the filing of a petition but a physician certifies that an emergency exists, the court:

(A) may order medical or physical examination or treatment of the child; and

(B) may order the child detained in a health care facility while the emergency exists.

(2) If the court has not authorized the filing of a petition but a physician certifies that continued medical care is necessary to protect the child after the emergency has passed, the court:

(A) may order medical services for a reasonable length of time; and

(B) may order the child detained while medical services are provided.

(3) If the court has authorized the filing of a petition alleging that a child is a delinquent child or a child in need of services, the court may order examination of the child to provide information for the dispositional hearing. The court may also order medical examinations and treatment of the child under any circumstances otherwise permitted by this section.

(4) After a child has been adjudicated a delinquent child or a child in need of services, the court may order examinations and treatment under IC 31-34-20 or IC 31-37-19.

As added by P.L.1-1997, SEC.15.

IC 31-32-12-2

Temporary confinement of child

Sec. 2. (a) The juvenile court may order temporary confinement for not more than fourteen (14) days, excluding Saturdays, Sundays, and legal holidays, to complete the mental or physical examination of a child.

(b) This section does not authorize a commitment under IC 12-26.

As added by P.L.1-1997, SEC.15.

IC 31-32-12-3

Return of child after passing of emergency

Sec. 3. Whenever an emergency has passed or whenever medical care is no longer necessary under section 1(2) of this chapter, the child shall be returned to the child's parent, guardian, or custodian unless:

(1) a petition has been filed; and

(2) the court has determined under IC 31-34-5 or IC 31-37-5 that the child should remain in detention.

As added by P.L.1-1997, SEC.15.

IC 31-32-12-4
Effect of chapter

Sec. 4. This chapter is in addition to, is not limited by, and does not limit IC 16-36-3.

As added by P.L.1-1997, SEC.15.

IC 31-32-13

Chapter 13. Issuance of Orders

IC 31-32-13-1

Motion for issuance of order

Sec. 1. Upon a juvenile court's motion or upon the motion of a child's parent, guardian, custodian, or guardian ad litem, a probation officer, a caseworker, the prosecuting attorney, the attorney for the department of child services, or any person providing services to the child or the child's parent, guardian, or custodian, the juvenile court may issue an order:

(1) to control the conduct of any person in relation to the child;

(2) to provide a child with an examination or treatment under IC 31-32-12; or

(3) to prevent a child from leaving the court's jurisdiction.

As added by P.L.1-1997, SEC.15. Amended by P.L.145-2006, SEC.278.

IC 31-32-13-2

Hearing and consideration of matter

Sec. 2. The juvenile court may:

(1) immediately set a matter described under section 1 of this chapter for hearing; or

(2) consider the matter at any other proceeding or hearing authorized under the juvenile law.

As added by P.L.1-1997, SEC.15.

IC 31-32-13-3

Notice

Sec. 3. The juvenile court must give notice to any person whose conduct will be regulated by an order issued under section 1 of this chapter to appear at a specified date and time concerning the relief requested under section 1 of this chapter.

As added by P.L.1-1997, SEC.15.

IC 31-32-13-4

Finding; admissible evidence

Sec. 4. The court shall issue an order under section 1 of this chapter if the court finds that good cause to issue the order is shown upon the record. The court may also consider any other evidence presented in other proceedings or hearings authorized under the juvenile law concerning the child as the basis for the issuance of the order.

As added by P.L.1-1997, SEC.15.

IC 31-32-13-5

Specificity of order

Sec. 5. An order issued under section 1 of this chapter must specifically describe in reasonable detail the acts or persons to be regulated under the order.

As added by P.L.1-1997, SEC.15.

IC 31-32-13-6
Duration of order; extension, modification, or dissolution

Sec. 6. An order issued under section 1 of this chapter (or IC 31-6-7-14(a) before its repeal) remains in effect for one (1) year. However, the juvenile court may:

(1) extend the order for additional one (1) year periods after an annual review of the order; and

(2) modify or dissolve the order at any time after a showing that:

(A) the original circumstances concerning the order have changed; or

(B) new circumstances have developed.

As added by P.L.1-1997, SEC.15.

IC 31-32-13-7
Issuance of emergency order

Sec. 7. If:

(1) the juvenile court determines on the juvenile court's review of the record that an emergency exists; or

(2) the moving party demonstrates by sworn testimony or affidavit that an emergency exists;

the juvenile court may issue an emergency order without a hearing.
As added by P.L.1-1997, SEC.15.

IC 31-32-13-8
Duration of emergency order

Sec. 8. (a) An emergency order issued under section 7 of this chapter (or IC 31-6-7-14(f) before its repeal) is valid for not more than seventy-two (72) hours, excluding Saturdays, Sundays, and legal holidays.

(b) The juvenile court may extend an emergency order issued under section 7 of this chapter (or IC 31-6-7-14(f) before its repeal) only on good cause shown upon the record for the extension.
As added by P.L.1-1997, SEC.15.

IC 31-32-13-9
Protective order depositories; confidential form

Sec. 9. When a court issues an order or an emergency order under this chapter:

(1) the clerk of the court 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.15.

IC 31-32-14

Chapter 14. Contempt of Court

IC 31-32-14-1

Punishment for contempt

Sec. 1. The juvenile court may punish a person for contempt of court under IC 34-47.

As added by P.L.1-1997, SEC.15. Amended by P.L.1-1998, SEC.167.

IC 31-32-15
Chapter 15. Appeals

IC 31-32-15-1
Appeal and review
Sec. 1. Appeals may be taken as provided by law.
As added by P.L.1-1997, SEC.15.

IC 31-32-16

Chapter 16. Involuntary Drug and Alcohol Treatment

IC 31-32-16-1

Involuntary treatment; drug or alcohol treatment

Sec. 1. A proceeding under this chapter is separate from and does not affect:

(1) a proceeding for involuntary treatment under IC 12-26; or

(2) an order from a juvenile court under IC 31-37 that requires drug or alcohol treatment.

As added by P.L.196-2003, SEC.2.

IC 31-32-16-2

Filing of verified petition; affidavit; placement in state owned or operated facility; participation of parent, guardian, or custodian in treatment

Sec. 2. (a) A parent, guardian, or custodian of a child may file a verified petition with the juvenile court in the county in which the child resides for involuntary drug and alcohol treatment if the child:

(1) is incapable of consenting; or

(2) refuses to consent;

to voluntary treatment.

(b) The verified petition must include an affidavit from a person described in section 4(a) of this chapter who has examined or treated the child not more than thirty (30) days before the filing of the verified petition. The affidavit must state that reasonable grounds exist to believe the child named in the petition is a drug or alcohol abuser (as defined in 440 IAC 4.4-1-1).

(c) Involuntary drug and alcohol treatment under this chapter may include appropriate placement in an inpatient or outpatient program or facility. A person ordered to complete inpatient drug and alcohol treatment under this chapter may not be placed in a facility that is owned or operated by the state.

(d) The judge of the juvenile court in which the verified petition is filed shall inform each parent, guardian, or custodian of the child that the parent, guardian, or custodian may be ordered to participate in any aspect of the child's treatment.

As added by P.L.196-2003, SEC.2.

IC 31-32-16-3

Verified petition; summary of facts

Sec. 3. A verified petition filed under section 2 of this chapter must include the name and age of the child and a summary of facts that support the petitioner's request for involuntary drug and alcohol treatment.

As added by P.L.196-2003, SEC.2.

IC 31-32-16-4

Ex parte probable cause determination; assessment; hearing

Sec. 4. (a) The juvenile court, after making an ex parte

determination that there is probable cause to believe the child is a drug or alcohol abuser (as defined in 440 IAC 4.4-1-1), shall order the child named in the petition to undergo a drug and alcohol assessment. The assessment shall be performed by:

(1) a psychiatrist (as defined in IC 11-10-3-1);
(2) a physician (as defined in IC 12-15-35-12); or
(3) a psychologist with training in drug and alcohol assessment and treatment.

The person who performs the assessment under this section must be different from the person who submitted the affidavit under section 2 of this chapter. If it is determined that involuntary treatment is necessary, the assessment must include a recommended level of care and length of treatment.

(b) After completion of the assessment, the juvenile court shall conduct a hearing. Each person who performed an assessment must be present and available to testify at the hearing.

As added by P.L.196-2003, SEC.2.

IC 31-32-16-5
Treatment; clear and convincing evidence

Sec. 5. Following a hearing, the juvenile court may order involuntary drug and alcohol treatment for not more than forty-five (45) consecutive days if the court finds by clear and convincing evidence that the child:

(1) is a drug or alcohol abuser (as defined in 440 IAC 4.4-1-1);
(2) is incapable of consenting to or refuses to consent to voluntary treatment services; and
(3) will benefit from a period of involuntary drug and alcohol treatment.

As added by P.L.196-2003, SEC.2.

IC 31-32-16-6
Review hearing; additional term of treatment; findings of fact

Sec. 6. (a) Before the expiration of a period of involuntary treatment, the juvenile court shall conduct a review hearing to determine whether further treatment is necessary.

(b) The juvenile court may order an additional term of treatment if it finds at the initial review hearing by clear and convincing evidence that the conditions enumerated in section 5 of this chapter are present and further treatment is necessary. An additional term of involuntary treatment may not exceed forty-five (45) consecutive days, and the juvenile court must conduct a review hearing before the expiration of the additional term. The court may order subsequent terms of involuntary treatment if at each review hearing the court makes findings required by this section.

(c) Each order for an additional term of treatment under subsection (b) must be supported by written findings of fact. The juvenile court shall issue written findings of fact not more than ten (10) days after the review hearing that orders an additional term of involuntary treatment.

As added by P.L.196-2003, SEC.2.

IC 31-32-16-7
Participation of parent, guardian, or custodian in treatment

Sec. 7. The juvenile court may order each parent, guardian, or custodian of the child to participate in any aspect of the child's treatment under section 5 or 6 of this chapter.
As added by P.L.196-2003, SEC.2.

IC 31-32-16-8
Modification of treatment order

Sec. 8. The juvenile court may modify the original terms of involuntary drug and alcohol treatment if it finds by clear and convincing evidence that a substantial change in the circumstances that supported the original terms and conditions of treatment has occurred.
As added by P.L.196-2003, SEC.2.

IC 31-32-16-9
Costs and fees

Sec. 9. A parent, guardian, or custodian is required to pay court costs, court fees, and the costs of assessment and treatment. Neither the court nor the county is liable for any part of the costs of assessment or treatment under this chapter.
As added by P.L.196-2003, SEC.2.

IC 31-32-16-10
Drug and alcohol assessment

Sec. 10. Notwithstanding IC 34-46-3 and IC 25-33-1-17, the judge may order a physician or a psychologist to submit a drug and alcohol assessment to the juvenile court in a proceeding under this chapter.
As added by P.L.196-2003, SEC.2.

IC 31-32-16-11
Guardian ad litem

Sec. 11. The judge of the juvenile court may appoint a guardian ad litem for the child at any time.
As added by P.L.196-2003, SEC.2.

IC 31-33

ARTICLE 33. JUVENILE LAW: REPORTING AND INVESTIGATION OF CHILD ABUSE AND NEGLECT

IC 31-33-1

Chapter 1. General Provisions

IC 31-33-1-1

Purpose of article

Sec. 1. The purpose of this article is to:

(1) encourage effective reporting of suspected or known incidents of child abuse or neglect;

(2) provide effective child services to quickly investigate reports of child abuse or neglect;

(3) provide protection for an abused or a neglected child from further abuse or neglect;

(4) provide rehabilitative services for an abused or a neglected child and the child's parent, guardian, or custodian; and

(5) establish a centralized statewide child abuse registry and an automated child protection system.

As added by P.L.1-1997, SEC.16. Amended by P.L.234-2005, SEC.94.

IC 31-33-1-2

Judge may directly contact local DCS office

Sec. 2. When confronted with a potential case of child abuse or neglect, a judge who wishes to contact the department shall first use the child abuse hotline to report the suspected child abuse or neglect to the department. If the:

(1) judge does not obtain a response from the child abuse hotline; or

(2) response the judge obtains from the hotline will not, in the opinion of the judge, serve the best interests of the child;

the judge may contact a local office of the department directly to report the suspected child abuse or neglect.

As added by P.L.158-2013, SEC.317.

IC 31-33-1.5
Repealed

(Repealed by P.L.145-2006, SEC.376.)

IC 31-33-2
Repealed

(Repealed by P.L.145-2006, SEC.376.)

IC 31-33-3

Chapter 3. Community Child Protection Team

IC 31-33-3-1

Community child protection team established; members

Sec. 1. (a) A community child protection team is established in each county. The community child protection team is a countywide, multidisciplinary child protection team. The team must include the following thirteen (13) members who reside in, or provide services to residents of, the county in which the team is to be formed:

(1) The director of the local office that provides child welfare services in the county or the local office director's designee.

(2) Two (2) designees of the juvenile court judge.

(3) The county prosecuting attorney or the prosecuting attorney's designee.

(4) The county sheriff or the sheriff's designee.

(5) Either:

(A) the president of the county executive in a county not containing a consolidated city or the president's designee; or

(B) the executive of a consolidated city in a county containing a consolidated city or the executive's designee.

(6) A director of a court appointed special advocate or guardian ad litem program or the director's designee in the county in which the team is to be formed.

(7) Either:

(A) a public school superintendent or the superintendent's designee; or

(B) a director of a local special education cooperative or the director's designee.

(8) Two (2) persons, each of whom is a physician or nurse, with experience in pediatrics or family practice.

(9) Two (2) residents of the county.

(10) The chief law enforcement officer of the largest law enforcement agency in the county (other than the county sheriff) or the chief law enforcement officer's designee.

(b) The director of the local office serving the county shall appoint, subject to the approval of the director of the department, the members of the team under subsection (a)(7), (a)(8), and (a)(9).

As added by P.L.1-1997, SEC.16. Amended by P.L.234-2005, SEC.102; P.L.146-2008, SEC.574.

IC 31-33-3-2

Election of team coordinator

Sec. 2. The team shall elect a team coordinator from the team's membership.

As added by P.L.1-1997, SEC.16.

IC 31-33-3-3

Duties of team coordinator

Sec. 3. The team coordinator shall supply the community child

protection team with the following:

(1) Copies of reports of child abuse or neglect under IC 31-33-7-1.

(2) Any other information or reports that the coordinator considers essential to the team's deliberations.

As added by P.L.1-1997, SEC.16.

IC 31-33-3-4
Meetings; agenda

Sec. 4. (a) The community child protection team shall meet:

(1) at least one (1) time each month; or

(2) at the times that the team's services are needed by the department.

(b) Meetings of the team shall be called by the majority vote of the members of the team.

(c) The team coordinator or at least two (2) other members of the team may determine the agenda.

(d) Notwithstanding IC 5-14-1.5, meetings of the team are open only to persons authorized to receive information under this article.

As added by P.L.1-1997, SEC.16. Amended by P.L.234-2005, SEC.103.

IC 31-33-3-5
Recommendation to the department of child services

Sec. 5. The community child protection team may recommend to the department that a petition be filed in the juvenile court on behalf of the subject child if the team believes this would best serve the interests of the child.

As added by P.L.1-1997, SEC.16. Amended by P.L.234-2005, SEC.104; P.L.162-2011, SEC.43.

IC 31-33-3-6
Review of child abuse and neglect cases and complaints

Sec. 6. The community child protection team may receive and review:

(1) any case that the department has been involved in within the county where the team presides; and

(2) complaints regarding child abuse and neglect cases that are brought to the team by a person or an agency.

As added by P.L.1-1997, SEC.16. Amended by P.L.234-2005, SEC.105.

IC 31-33-3-7
Periodic reports

Sec. 7. (a) The community child protection team shall prepare a periodic report regarding the child abuse and neglect reports and complaints that the team reviews under this chapter.

(b) The periodic report may include the following information:

(1) The number of complaints under section 6 of this chapter that the team receives and reviews each month.

(2) A description of the child abuse and neglect reports that the team reviews each month, including the following information:

(A) The scope and manner of the interviewing process during the child abuse or neglect assessment.

(B) The timeliness of the assessment.

(C) The number of children removed from the home.

(D) The types of services offered.

(E) The number of child abuse and neglect cases filed with a court.

(F) The reasons that certain child abuse and neglect cases are not filed with a court.

As added by P.L.1-1997, SEC.16. Amended by P.L.146-2008, SEC.575; P.L.131-2009, SEC.39.

IC 31-33-3-8
Confidentiality of matters reviewed

Sec. 8. The members of the community child protection team are bound by all applicable laws regarding the confidentiality of matters reviewed by the team.

As added by P.L.1-1997, SEC.16.

IC 31-33-4

Chapter 4. Local Plan for Provision of Child Protection Services

IC 31-33-4-1

Preparation and submission of local plan

Sec. 1. Before February 2 of each even-numbered year, each regional services council, after a public hearing, shall:

(1) prepare a local plan for the provision of child protection services; and

(2) submit the plan to:

(A) the director;

(B) each juvenile court within the region;

(C) the community child protection team as provided for in IC 31-33-3-1; and

(D) appropriate public or voluntary agencies, including organizations for the prevention of child abuse or neglect.

As added by P.L.1-1997, SEC.16. Amended by P.L.146-2008, SEC.576.

IC 31-33-4-2

Description of implementation

Sec. 2. The local plan must describe the implementation of this article in the region by the department, including the following:

(1) Organization.

(2) Staffing.

(3) Mode of operations.

(4) Financing of the child protection services.

(5) The provisions made for the purchase of service and interagency relations.

As added by P.L.1-1997, SEC.16. Amended by P.L.234-2005, SEC.106; P.L.145-2006, SEC.279; P.L.146-2008, SEC.577.

IC 31-33-4-3

Certification

Sec. 3. (a) Not later than sixty (60) days after receiving the plan, the director shall certify whether the local plan fulfills the purposes and meets the requirements of this article.

(b) If the director certifies that the local plan does not fulfill the purposes and meet the requirements of this article, the director shall:

(1) state the reasons for the decision;

(2) make revisions to the plan that the director determines are necessary to meet the requirements and fulfill the purposes of this article; and

(3) approve and certify the revised plan as the local plan required by this chapter.

As added by P.L.1-1997, SEC.16. Amended by P.L.145-2006, SEC.280.

IC 31-33-4-4

Repealed

(Repealed by P.L.146-2008, SEC.806.)

IC 31-33-5
Chapter 5. Duty to Report Child Abuse or Neglect

IC 31-33-5-1
Duty to make report

Sec. 1. In addition to any other duty to report arising under this article, an individual who has reason to believe that a child is a victim of child abuse or neglect shall make a report as required by this article.

As added by P.L.1-1997, SEC.16.

IC 31-33-5-2
Notification of individual in charge of institution, school, facility, or agency; report

Sec. 2. (a) If an individual is required to make a report under this article in the individual's capacity as a member of the staff of a medical or other public or private institution, school, facility, or agency, the individual shall immediately notify the individual in charge of the institution, school, facility, or agency or the designated agent of the individual in charge of the institution, school, facility, or agency.

(b) An individual notified under subsection (a) shall report or cause a report to be made.

As added by P.L.1-1997, SEC.16.

IC 31-33-5-3
Effect of compliance on individual's own duty to report

Sec. 3. This chapter does not relieve an individual of the obligation to report on the individual's own behalf, unless a report has already been made to the best of the individual's belief.

As added by P.L.1-1997, SEC.16.

IC 31-33-5-4
Immediate oral report to department of child services or law enforcement agency

Sec. 4. A person who has a duty under this chapter to report that a child may be a victim of child abuse or neglect shall immediately make an oral report to:

(1) the department; or

(2) the local law enforcement agency.

As added by P.L.1-1997, SEC.16. Amended by P.L.234-2005, SEC.107.

IC 31-33-6

Chapter 6. Immunity of Persons Who Report Child Abuse or Neglect

IC 31-33-6-1

Immunity from civil or criminal liability

Sec. 1. Except as provided in section 2 of this chapter, a person, other than a person accused of child abuse or neglect, who:

(1) makes or causes to be made a report of a child who may be a victim of child abuse or neglect;

(2) is a health care provider and detains a child for purposes of causing photographs, x-rays, or a physical medical examination to be made under IC 31-33-10;

(3) makes any other report of a child who may be a victim of child abuse and neglect; or

(4) participates in any judicial proceeding or other proceeding:

(A) resulting from a report that a child may be a victim of child abuse or neglect; or

(B) relating to the subject matter of the report;

is immune from any civil or criminal liability that might otherwise be imposed because of such actions.

As added by P.L.1-1997, SEC.16.

IC 31-33-6-2

Exception for malice or bad faith

Sec. 2. Immunity does not attach for a person who has acted maliciously or in bad faith.

As added by P.L.1-1997, SEC.16.

IC 31-33-6-3

Presumption of good faith

Sec. 3. A person making a report that a child may be a victim of child abuse or neglect or assisting in any requirement of this article is presumed to have acted in good faith.

As added by P.L.1-1997, SEC.16.

IC 31-33-7

Chapter 7. Receipt of Reports of Suspected Child Abuse or Neglect

IC 31-33-7-1

Arrangement for receipt of reports

Sec. 1. The department shall arrange for receipt, on a twenty-four (24) hour, seven (7) day per week basis, of all reports under this article of suspected child abuse or neglect.

As added by P.L.1-1997, SEC.16. Amended by P.L.234-2005, SEC.108.

IC 31-33-7-2

Standardized phone access system

Sec. 2. To carry out section 1 of this chapter, the department must use a phone access system for receiving calls that is standardized among all counties. The department shall adopt rules under IC 4-22-2 for the administration of this section.

As added by P.L.1-1997, SEC.16. Amended by P.L.234-2005, SEC.109.

IC 31-33-7-3

Child abuse hotline

Sec. 3. The department shall cause to be inserted in each local telephone directory in the county a listing of the child abuse hotline's telephone number under the name "child abuse hotline". The child abuse hotline number under this section must be included with the other emergency numbers listed in the directory.

As added by P.L.1-1997, SEC.16. Amended by P.L.234-2005, SEC.110.

IC 31-33-7-4

Written report; contents

Sec. 4. (a) The department shall make a written report of a child who may be a victim of child abuse or neglect not later than forty-eight (48) hours after receipt of the oral report required of individuals by IC 31-33-5-4.

(b) Written reports under this section must be made on forms supplied by the administrator. The written reports must include, if known, the following information:

(1) The names and addresses of the following:

(A) The child.

(B) The child's parents, guardian, custodian, or other person responsible for the child's care.

(2) The child's age and sex.

(3) The nature and apparent extent of the child's injuries, abuse, or neglect, including any evidence of prior:

(A) injuries of the child; or

(B) abuse or neglect of the child or the child's siblings.

(4) The name of the person allegedly responsible for causing the

injury, abuse, or neglect.
(5) The source of the report.
(6) The person making the report and where the person can be reached.
(7) The actions taken by the reporting source, including the following:
(A) Taking of photographs and x-rays.
(B) Removal or keeping of the child.
(C) Notifying the coroner.
(8) The written documentation required by IC 31-34-2-3 if a child was taken into custody without a court order.
(9) Any other information that:
(A) the director requires by rule; or
(B) the person making the report believes might be helpful.
As added by P.L.1-1997, SEC.16. Amended by P.L.234-2005, SEC.111.

IC 31-33-7-5
Written report; copies made available to law enforcement agencies, prosecuting attorney, and coroner
Sec. 5. A copy of the written report of the department shall immediately be made available to:
(1) the appropriate law enforcement agency;
(2) the prosecuting attorney; and
(3) in a case involving death, the coroner for the coroner's consideration.
As added by P.L.1-1997, SEC.16. Amended by P.L.234-2005, SEC.112.

IC 31-33-7-6
Coroner's investigation and report
Sec. 6. Upon receiving a written report under section 5(3) of this chapter, the coroner shall:
(1) accept a report for investigation; and
(2) report the coroner's findings to:
(A) the appropriate law enforcement agency;
(B) the prosecuting attorney;
(C) the department; and
(D) the hospital if the institution making the report is a hospital.
As added by P.L.1-1997, SEC.16. Amended by P.L.234-2005, SEC.113.

IC 31-33-7-6.5
Repealed
(Repealed by P.L.48-2012, SEC.38.)

IC 31-33-7-7
Law enforcement agency investigation and communication of information

Sec. 7. (a) When a law enforcement agency receives an initial report under IC 31-33-5-4 that a child may be a victim of child abuse or neglect, the law enforcement agency shall:

(1) immediately communicate the report to the department, whether or not the law enforcement agency has reason to believe there exists an imminent danger to the child's health or welfare; and

(2) conduct an immediate, onsite assessment of the report along with the department whenever the law enforcement agency has reason to believe that an offense has been committed.

(b) In all cases, the law enforcement agency shall forward any information, including copies of assessment reports, on incidents of cases in which a child may be a victim of child abuse or neglect, whether or not obtained under this article, to:

(1) the department; and

(2) the juvenile court under IC 31-34-7.

As added by P.L.1-1997, SEC.16. Amended by P.L.234-2005, SEC.115; P.L.131-2009, SEC.41.

IC 31-33-7-8

Reports after initiation of assessment or investigation; contents; confidentiality

Sec. 8. (a) This section applies if the department receives a report of suspected child abuse or neglect from:

(1) a hospital;

(2) a community mental health center;

(3) a managed care provider (as defined in IC 12-7-2-127(b));

(4) a referring physician;

(5) a dentist;

(6) a licensed psychologist;

(7) a school;

(8) a child caring institution licensed under IC 31-27;

(9) a group home licensed under IC 31-27 or IC 12-28-4;

(10) a secure private facility; or

(11) a child placing agency (as defined in IC 31-9-2-17.5).

(b) Not later than thirty (30) days after the date the department initiates an assessment or investigation of a report of suspected child abuse or neglect from a person described in subsection (a), the department shall send a report to:

(1) the administrator of the hospital;

(2) the community mental health center;

(3) the managed care provider;

(4) the referring physician;

(5) the dentist;

(6) the principal of the school;

(7) a licensed psychologist;

(8) a child caring institution licensed under IC 31-27;

(9) a group home licensed under IC 31-27 or IC 12-28-4;

(10) a secure private facility; or

(11) a child placing agency (as defined in IC 31-9-2-17.5).

The report must contain the items listed in subsection (d) that are known at the time the report is sent.

(c) The administrator, director, referring physician, dentist, licensed psychologist, or principal may appoint a designee to receive the report.

(d) A report made by the department under this section must contain the following information:

(1) The name of the alleged victim of child abuse or neglect.

(2) The name of the alleged perpetrator and the alleged perpetrator's relationship to the alleged victim.

(3) Whether the assessment is closed.

(4) Whether the department has made an assessment of the case and has not taken any further action.

(5) The caseworker's name and telephone number.

(6) The date the report is prepared.

(7) Other information that the department may prescribe.

(e) A report made under this section:

(1) is confidential; and

(2) may be made available only to:

(A) the agencies named in this section; and

(B) the persons and agencies listed in IC 31-33-18-2.

As added by P.L.1-1997, SEC.16. Amended by P.L.234-2005, SEC.116; P.L.131-2009, SEC.42; P.L.162-2011, SEC.44.

IC 31-33-8

Chapter 8. Investigation of Reports of Suspected Child Abuse or Neglect

IC 31-33-8-1

Investigations by the department of child services; time of initiation; investigations of child care ministries

Sec. 1. (a) The department shall initiate an appropriately thorough child protection assessment of every report of known or suspected child abuse or neglect the department receives, whether in accordance with this article or otherwise.

(b) If a report of known or suspected child abuse or neglect is received from a judge or prosecutor requesting the department to initiate a child protection assessment, the department shall initiate an assessment in accordance with this section.

(c) If a report of known or suspected child abuse or neglect is received from:

(1) medical personnel;
(2) school personnel;
(3) a social worker;
(4) law enforcement officials or personnel;
(5) judiciary personnel; or
(6) prosecuting attorney personnel;

the department shall forward the report to the local office to determine if the department will initiate an assessment in accordance with this section.

(d) If the department believes that a child is in imminent danger of serious bodily harm, the department shall initiate an onsite assessment immediately, but not later than one (1) hour, after receiving the report.

(e) If the report alleges a child may be a victim of child abuse, the assessment shall be initiated immediately, but not later than twenty-four (24) hours after receipt of the report.

(f) If reports of child neglect are received, the assessment shall be initiated within a reasonably prompt time, but not later than five (5) days, with the primary consideration being the well-being of the child who is the subject of the report.

(g) If the report alleges that a child lives with a parent, guardian, or custodian who is married to or lives with a person who:

(1) has been convicted of:
(A) neglect of a dependent under IC 35-46-1-4; or
(B) a battery offense under IC 35-42-4; or
(2) is required to register as a sex or violent offender under IC 11-8-8;

the department shall initiate an assessment within a reasonably prompt time, but not later than five (5) days after the department receives the report, with the primary consideration being the well-being of the child who is the subject of the report.

(h) If the safety or well-being of a child appears to be endangered or the facts otherwise warrant, the assessment shall be initiated

regardless of the time of day.

(i) If a report alleges abuse or neglect and involves a child care ministry that is exempt from licensure under IC 12-17.2-6, the department and the appropriate law enforcement agency shall jointly conduct an investigation. The investigation shall be conducted under the requirements of this section and section 2(b) of this chapter.

As added by P.L.1-1997, SEC.16. Amended by P.L.234-2005, SEC.117; P.L.124-2007, SEC.10; P.L.131-2009, SEC.43; P.L.205-2013, SEC.339.

IC 31-33-8-2

Investigations by law enforcement agencies

Sec. 2. (a) Upon the receipt of each report under this chapter of known or suspected child abuse, the department shall contact the law enforcement agency in the appropriate jurisdiction.

(b) The law enforcement agency, with the department, shall conduct an immediate onsite investigation of the report if the law enforcement agency has reason to believe that an offense has been committed. The law enforcement agency shall investigate the alleged child abuse or neglect under this chapter in the same manner that the law enforcement agency conducts any other criminal investigation.

As added by P.L.1-1997, SEC.16. Amended by P.L.234-2005, SEC.118.

IC 31-33-8-3

Photographs and x-rays

Sec. 3. (a) Except as provided in subsection (b), the department shall:

(1) cause color photographs to be taken of the areas of trauma visible on a child who is subject to a report; and

(2) if medically indicated, cause a radiological examination of the child to be performed.

(b) If the law enforcement agency participates in the assessment, the law enforcement agency shall cause the color photographs to be taken as provided by this section.

(c) The department shall reimburse the expenses of the photographs and x-rays.

As added by P.L.1-1997, SEC.16. Amended by P.L.234-2005, SEC.119; P.L.131-2009, SEC.44.

IC 31-33-8-4

Notice to prosecuting attorney of reports involving child's death

Sec. 4. The law enforcement agency shall:

(1) give telephone notice; and

(2) immediately forward a copy;

of reports made under this article that involve the death of a child to the appropriate prosecuting attorney.

As added by P.L.1-1997, SEC.16.

IC 31-33-8-5

Forwarding copies of reports to prosecuting attorney

Sec. 5. The department shall immediately forward a copy of all reports made under this article to the appropriate prosecuting attorney if the prosecuting attorney has made a prior request to the service in writing for the copies.

As added by P.L.1-1997, SEC.16. Amended by P.L.234-2005, SEC.120.

IC 31-33-8-6

Investigatory duties of department of child services; purpose

Sec. 6. The department shall promptly make a thorough assessment upon either the oral or written report. The primary purpose of the assessment is the protection of the child.

As added by P.L.1-1997, SEC.16. Amended by P.L.234-2005, SEC.121; P.L.131-2009, SEC.45.

IC 31-33-8-7

Scope of assessment by department of child services; order for access to home, school, or other place, or for mental or physical examinations; petition to interview child; order; requirements

Sec. 7. (a) The department's assessment, to the extent that is reasonably possible, must include the following:

(1) The nature, extent, and cause of the known or suspected child abuse or neglect.

(2) The identity of the person allegedly responsible for the child abuse or neglect.

(3) The names and conditions of other children in the home.

(4) An evaluation of the parent, guardian, custodian or person responsible for the care of the child.

(5) The home environment and the relationship of the child to the parent, guardian, or custodian or other persons responsible for the child's care.

(6) All other data considered pertinent.

(b) The assessment may include the following:

(1) A visit to the child's home.

(2) An interview with the subject child.

(3) A physical, psychological, or psychiatric examination of any child in the home.

(c) If:

(1) admission to the home, the school, or any other place that the child may be; or

(2) permission of the parent, guardian, custodian, or other persons responsible for the child for the physical, psychological, or psychiatric examination;

under subsection (b) cannot be obtained, the juvenile court, upon good cause shown, shall follow the procedures under IC 31-32-12.

(d) If a custodial parent, a guardian, or a custodian of a child refuses to allow the department to interview the child after the caseworker has attempted to obtain the consent of the custodial parent, guardian, or custodian to interview the child, the department

may petition a court to order the custodial parent, guardian, or custodian to make the child available to be interviewed by the caseworker.

(e) If the court finds that:

(1) a custodial parent, a guardian, or a custodian has been informed of the hearing on a petition described under subsection (d); and

(2) the department has made reasonable and unsuccessful efforts to obtain the consent of the custodial parent, guardian, or custodian to interview the child;

the court shall specify in the order the efforts the department made to obtain the consent of the custodial parent, guardian, or custodian and may grant the motion to interview the child, either with or without the custodial parent, guardian, or custodian being present.

As added by P.L.1-1997, SEC.16. Amended by P.L.234-2005, SEC.122; P.L.131-2009, SEC.46; P.L.162-2011, SEC.45.

IC 31-33-8-8

Order for child's immediate removal; preparation of investigative report

Sec. 8. (a) If, before the assessment is complete, the opinion of the law enforcement agency or the department is that immediate removal is necessary to protect the child from further abuse or neglect, the juvenile court may issue an order under IC 31-32-13.

(b) The department shall make a complete written report of the assessment.

(c) If a law enforcement agency participates in the assessment, the law enforcement agency shall also make a complete written report of the assessment.

As added by P.L.1-1997, SEC.16. Amended by P.L.234-2005, SEC.123; P.L.131-2009, SEC.47.

IC 31-33-8-9

Provision of copies of investigative report by department of child services

Sec. 9. (a) The department's report under section 8 of this chapter shall be made available to:

(1) the appropriate court;

(2) the prosecuting attorney; or

(3) the appropriate law enforcement agency;

upon request.

(b) If child abuse or neglect is substantiated after an assessment is conducted under section 7 of this chapter, the department shall forward its report to the office of the prosecuting attorney having jurisdiction in the county in which the alleged child abuse or neglect occurred.

(c) If the assessment substantiates a finding of child abuse or neglect as determined by the department, a report shall be sent to the coordinator of the community child protection team under IC 31-33-3.

As added by P.L.1-1997, SEC.16. Amended by P.L.35-1998, SEC.4; P.L.234-2005, SEC.124; P.L.131-2009, SEC.48.

IC 31-33-8-10
Provision of information and copies of investigative report by law enforcement agency

Sec. 10. If the law enforcement agency participates in the child abuse or neglect assessment, the law enforcement agency shall forward all information, including copies of an assessment report under section 7 of this chapter, on an incident in which a child may be a victim of alleged child abuse or neglect, whether obtained under this article or not, to the office of the prosecuting attorney.
As added by P.L.1-1997, SEC.16. Amended by P.L.131-2009, SEC.49.

IC 31-33-8-11
Law enforcement agency's duty to release information to department of child services

Sec. 11. In all cases, the law enforcement agency shall release information on an incident in which a child may be a victim of alleged child abuse or neglect, whether obtained under this article or not, to the department.
As added by P.L.1-1997, SEC.16. Amended by P.L.234-2005, SEC.125.

IC 31-33-8-12
Classifying reports as substantiated or unsubstantiated

Sec. 12. Upon completion of an assessment, the department shall classify reports as substantiated or unsubstantiated.
As added by P.L.1-1997, SEC.16. Amended by P.L.70-2004, SEC.13; P.L.234-2005, SEC.126; P.L.131-2009, SEC.50.

IC 31-33-8-13
Court findings to be entered in the child protection index

Sec. 13. Whenever a court finds that a child is a child in need of services on the basis of a child abuse or neglect report classified as substantiated under section 12 of this chapter, the department shall enter into the child protection index established under IC 31-33-26-2 identifiable information concerning the court's judgment.
As added by P.L.1-1997, SEC.16. Amended by P.L.234-2005, SEC.127; P.L.138-2007, SEC.65.

IC 31-33-8-14
Repealed

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

IC 31-33-9

Chapter 9. Designation of Public or Private Agencies to Investigate Reports of Abuse or Neglect Involving a Child Under the Care of a Public or Private Institution

IC 31-33-9-1

Written protocol or agreement designating agency primarily responsible for investigation

Sec. 1. (a) Through a written protocol or agreement, the department shall designate the public or private agencies primarily responsible for investigating reports involving a child who:

(1) may be a victim of child abuse or neglect; and

(2) is under the care of a public or private institution.

(b) The designated agency must be different from and separately administered from the agency involved in the alleged act or omission. Subject to this limitation, the agency:

(1) may be:

(A) the department; or

(B) a law enforcement agency; and

(2) may not be the office of the prosecuting attorney.

As added by P.L.1-1997, SEC.16. Amended by P.L.234-2005, SEC.128.

IC 31-33-9-2

Terms or conditions of protocol or agreement

Sec. 2. The protocol or agreement must describe the specific terms or conditions of the designation, including the following:

(1) The manner in which reports of a child who may be a victim of child abuse or neglect and who is under the care of a public or private institution will be received.

(2) The manner in which the reports will be investigated.

(3) The remedial action that will be taken.

(4) The manner in which the department will be kept fully informed on the progress, findings, and disposition of the investigation.

As added by P.L.1-1997, SEC.16. Amended by P.L.234-2005, SEC.129.

IC 31-33-9-3

Purchase of services of public or private agency

Sec. 3. To fulfill the purposes of this chapter, the department may purchase the services of the public or private agency designated to investigate reports of child abuse or neglect.

As added by P.L.1-1997, SEC.16. Amended by P.L.234-2005, SEC.130.

IC 31-33-10

Chapter 10. Duty of Health Care Provider to Examine, Photograph, and X-ray Child Who Is Subject of Child Abuse or Neglect Report

IC 31-33-10-1

Duty to photograph, x-ray, and physically examine trauma visible on child

Sec. 1. (a) A person who:

(1) is required to report cases of known or suspected child abuse or neglect; and

(2) is also a health care provider or a person in charge of a hospital or similar medical institution treating the child;

shall cause photographs to be taken of the areas of trauma visible on the child who is the subject of a report.

(b) If medically indicated, a physician may cause a radiological examination or a physical medical examination, or both, of the child to be performed.

As added by P.L.1-1997, SEC.16.

IC 31-33-10-2

Photographs, x-rays, and physical medical examinations; reimbursement of costs

Sec. 2. The department shall reimburse the reasonable cost of photographs, x-rays, or physical medical examinations made under this chapter.

As added by P.L.1-1997, SEC.16. Amended by P.L.234-2005, SEC.131.

IC 31-33-10-3

Photographs, x-rays, and physical medical examinations; delivery to department of child services; notice of existence

Sec. 3. All photographs taken and a summary of x-rays and other medical care shall be sent to the department and, upon request, to a law enforcement agency that investigates the alleged child abuse or neglect, at the time the written report is sent or as soon thereafter as possible. The department shall give notice of the existence of photographs, x-rays, and physical medical examination reports in accordance with IC 31-25-2-12.

As added by P.L.1-1997, SEC.16. Amended by P.L.197-1999, SEC.4; P.L.234-2005, SEC.132; P.L.145-2006, SEC.281.

IC 31-33-11

Chapter 11. Duty of Hospital Not to Release Child Who Is Subject of Child Abuse or Neglect Report

IC 31-33-11-1

Conditions for release of child under investigation for abuse or neglect; expenses of extended hospital stay

Sec. 1. (a) Whenever:

(1) a child is subject to assessment by the department for reported child abuse or neglect;

(2) the child is a patient in a hospital; and

(3) the hospital has reported or has been informed of the report and assessment;

the hospital may not release the child to the child's parent, guardian, custodian, or to a court approved placement until the hospital receives authorization or a copy of a court order from the department indicating that the child may be released to the child's parent, guardian, custodian, or court approved placement.

(b) If the authorization that is granted under this section is verbal, the department shall send a letter to the hospital confirming that the department has granted authorization for the child's release.

(c) The individual or third party payor responsible financially for the hospital stay of the child remains responsible for any extended stay under this section. If no party is responsible for the extended stay, the department shall pay the expenses of the extended hospital stay.

As added by P.L.1-1997, SEC.16. Amended by P.L.234-2005, SEC.133; P.L.131-2009, SEC.51.

IC 31-33-12
Repealed

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

IC 31-33-13
Repealed

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

IC 31-33-14

Chapter 14. Referral of Case to Juvenile Court Following Investigation of Report of Child Abuse or Neglect; Juvenile Court Proceeding

IC 31-33-14-1

Referral to juvenile court or prosecuting attorney

Sec. 1. If the department determines that the best interests of the child require action in the juvenile or criminal court, the department shall:

(1) refer the case to the juvenile court under IC 31-34-7; or

(2) make a referral to the prosecuting attorney if criminal prosecution is desired.

As added by P.L.1-1997, SEC.16. Amended by P.L.234-2005, SEC.142.

IC 31-33-14-2

Duty of department of child services to assist court

Sec. 2. The department shall assist the juvenile court or the court having criminal jurisdiction during all stages of the proceedings in accordance with the purposes of this article.

As added by P.L.1-1997, SEC.16. Amended by P.L.234-2005, SEC.143.

IC 31-33-15

Chapter 15. Appointment of Guardian Ad Litem or Court Appointed Special Advocate

IC 31-33-15-1

Appointment

Sec. 1. In every judicial proceeding under this article, the court may appoint for the child a guardian ad litem or a court appointed special advocate, or both, under IC 31-32-3.

As added by P.L.1-1997, SEC.16.

IC 31-33-15-2

Access to reports

Sec. 2. The guardian ad litem or the court appointed special advocate, or both, shall be given access under IC 31-39 to:

(1) all reports relevant to the case; and

(2) any reports of examinations of the child's parents or other person responsible for the child's welfare.

As added by P.L.1-1997, SEC.16.

IC 31-33-15-3

Costs of services of guardian ad litem

Sec. 3. Any costs related to the services of a guardian ad litem shall be paid according to IC 31-40.

As added by P.L.1-1997, SEC.16.

IC 31-33-16

Chapter 16. Review of Status of Child by Juvenile Court

IC 31-33-16-1

Review of status of child removed from family

Sec. 1. The juvenile court shall review the status of a child removed from the child's family under this article (or IC 31-6-11 before its repeal) according to IC 31-34-21.

As added by P.L.1-1997, SEC.16.

IC 31-33-17
Repealed

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

IC 31-33-18

Chapter 18. Disclosure of Reports; Confidentiality Requirements

IC 31-33-18-1

Confidentiality; exceptions

Sec. 1. (a) Except as provided in section 1.5 of this chapter, the following are confidential:

(1) Reports made under this article (or IC 31-6-11 before its repeal).

(2) Any other information obtained, reports written, or photographs taken concerning the reports in the possession of:

(A) the division of family resources;

(B) the local office;

(C) the department; or

(D) the department of child services ombudsman established by IC 4-13-19-3.

(b) Except as provided in section 1.5 of this chapter, all records held by:

(1) the division of family resources;

(2) a local office;

(3) the department;

(4) a local child fatality review team established under IC 16-49-2;

(5) the statewide child fatality review committee established under IC 16-49-4; or

(6) the department of child services ombudsman established by IC 4-13-19-3;

regarding the death of a child determined to be a result of abuse, abandonment, or neglect are confidential and may not be disclosed. *As added by P.L.1-1997, SEC.16. Amended by P.L.70-2004, SEC.14; P.L.234-2005, SEC.153; P.L.145-2006, SEC.283; P.L.182-2009(ss), SEC.378; P.L.128-2012, SEC.153; P.L.119-2013, SEC.10.*

IC 31-33-18-1.5

Written findings; copies to the department of child services; certain records held by governmental entities not confidential if redacted; procedure for redacting records

Sec. 1.5. (a) This section applies to records held by:

(1) a local office;

(2) the department; or

(3) the department of child services ombudsman established by IC 4-13-19-3;

regarding a child whose death or near fatality may have been the result of abuse, abandonment, or neglect.

(b) For purposes of subsection (a), a child's death or near fatality may have been the result of abuse, abandonment, or neglect if:

(1) an entity described in subsection (a) determines that the child's death or near fatality is the result of abuse, abandonment, or neglect; or

(2) a prosecuting attorney files:

(A) an indictment or information; or

(B) a complaint alleging the commission of a delinquent act;

that, if proven, would cause a reasonable person to believe that the child's death or near fatality may have been the result of abuse, abandonment, or neglect.

Upon the request of any person, or upon its own motion, the court exercising juvenile jurisdiction in the county in which the child's death or near fatality occurred shall determine whether the allegations contained in the indictment, information, or complaint described in subdivision (2), if proven, would cause a reasonable person to believe that the child's death or near fatality may have been the result of abuse, abandonment, or neglect.

(c) If the juvenile court finds that the child's death or near fatality was the result of abuse, abandonment, or neglect, the court shall make written findings and provide a copy of the findings and the indictment, information, or complaint described under subsection (b)(2) to the department.

(d) As used in this section:

(1) "case" means:

(A) any intake report generated by the department;

(B) any investigation or assessment conducted by the department; or

(C) ongoing involvement between the department and a child or family that is the result of:

(i) a program of informal adjustment; or

(ii) a child in need of services action;

for which related records and documents have not been expunged as required by law or by a court at the time the department is notified of a fatality or near fatality;

(2) "contact" means in person communication about a case in which:

(A) the child who is the victim of a fatality or near fatality is alleged to be a victim; or

(B) the perpetrator of the fatality or near fatality is alleged to be the perpetrator;

(3) "identifying information" means information that identifies an individual, including an individual's:

(A) name, address, date of birth, occupation, place of employment, and telephone number;

(B) employer identification number, mother's maiden name, Social Security number, or any identification number issued by a governmental entity;

(C) unique biometric data, including the individual's fingerprint, voice print, or retina or iris image;

(D) unique electronic identification number, address, or routing code;

(E) telecommunication identifying information; or

(F) telecommunication access device, including a card, a plate, a code, an account number, a personal identification

number, an electronic serial number, a mobile identification number, or another telecommunications service or device or means of account access; and

(4) "near fatality" has the meaning set forth in 42 U.S.C. 5106a.

(e) Unless information in a record is otherwise confidential under state or federal law, a record described in subsection (a) that has been redacted in accordance with this section is not confidential and may be disclosed to any person who requests the record. The person requesting the record may be required to pay the reasonable expenses of copying the record.

(f) When a person requests a record described in subsection (a), the entity having control of the record shall immediately transmit a copy of the record to the court exercising juvenile jurisdiction in the county in which the death or near fatality of the child occurred. However, if the court requests that the entity having control of a record transmit the original record, the entity shall transmit the original record.

(g) Upon receipt of the record described in subsection (a), the court shall, within thirty (30) days, redact the record to exclude:

(1) identifying information described in subsection (d)(3)(B) through (d)(3)(F) of a person; and

(2) all identifying information of a child less than eighteen (18) years of age.

(h) The court shall disclose the record redacted in accordance with subsection (g) to any person who requests the record, if the person has paid:

(1) to the entity having control of the record, the reasonable expenses of copying under IC 5-14-3-8; and

(2) to the court, the reasonable expenses of copying the record.

(i) The data and information in a record disclosed under this section must include the following:

(1) A summary of the report of abuse or neglect and a factual description of the contents of the report.

(2) The date of birth and gender of the child.

(3) The cause of the fatality or near fatality, if the cause has been determined.

(4) Whether the department had any contact with the child or the perpetrator before the fatality or near fatality, and, if the department had contact, the following:

(A) The frequency of the contact with the child or the perpetrator before the fatality or near fatality and the date on which the last contact occurred before the fatality or near fatality.

(B) A summary of the status of the child's case at the time of the fatality or near fatality, including:

(i) whether the child's case was closed by the department before the fatality or near fatality; and

(ii) if the child's case was closed as described under item (i), the date of closure and the reasons that the case was closed.

(j) The court's determination under subsection (g) that certain identifying information or other information is not relevant to establishing the facts and circumstances leading to the death or near fatality of a child is not admissible in a criminal proceeding or civil action.

As added by P.L.70-2004, SEC.15. Amended by P.L.234-2005, SEC.154; P.L.145-2006, SEC.284; P.L.131-2009, SEC.52; P.L.182-2009(ss), SEC.379; P.L.162-2011, SEC.46; P.L.128-2012, SEC.154; P.L.119-2013, SEC.11.

IC 31-33-18-2

Disclosure of unredacted material to certain persons

Sec. 2. The reports and other material described in section 1(a) of this chapter and the unredacted reports and other material described in section 1(b) of this chapter shall be made available only to the following:

(1) Persons authorized by this article.

(2) A legally mandated public or private child protective agency investigating a report of child abuse or neglect or treating a child or family that is the subject of a report or record.

(3) Any of the following who are investigating a report of a child who may be a victim of child abuse or neglect:

(A) A police officer or other law enforcement agency.

(B) A prosecuting attorney.

(C) A coroner, in the case of the death of a child.

(4) A physician who has before the physician a child whom the physician reasonably suspects may be a victim of child abuse or neglect.

(5) An individual legally authorized to place a child in protective custody if:

(A) the individual has before the individual a child whom the individual reasonably suspects may be a victim of abuse or neglect; and

(B) the individual requires the information in the report or record to determine whether to place the child in protective custody.

(6) An agency having the legal responsibility or authorization to care for, treat, or supervise a child who is the subject of a report or record or a parent, guardian, custodian, or other person who is responsible for the child's welfare.

(7) An individual named in the report or record who is alleged to be abused or neglected or, if the individual named in the report is a child or is otherwise incompetent, the individual's guardian ad litem or the individual's court appointed special advocate, or both.

(8) Each parent, guardian, custodian, or other person responsible for the welfare of a child named in a report or record and an attorney of the person described under this subdivision, with protection for the identity of reporters and other appropriate individuals.

(9) A court, for redaction of the record in accordance with section 1.5 of this chapter, or upon the court's finding that access to the records may be necessary for determination of an issue before the court. However, except for disclosure of a redacted record in accordance with section 1.5 of this chapter, access is limited to in camera inspection unless the court determines that public disclosure of the information contained in the records is necessary for the resolution of an issue then pending before the court.
(10) A grand jury upon the grand jury's determination that access to the records is necessary in the conduct of the grand jury's official business.
(11) An appropriate state or local official responsible for child protection services or legislation carrying out the official's official functions.
(12) A foster care review board established by a juvenile court under IC 31-34-21-9 (or IC 31-6-4-19 before its repeal) upon the court's determination that access to the records is necessary to enable the foster care review board to carry out the board's purpose under IC 31-34-21.
(13) The community child protection team appointed under IC 31-33-3 (or IC 31-6-11-14 before its repeal), upon request, to enable the team to carry out the team's purpose under IC 31-33-3.
(14) A person about whom a report has been made, with protection for the identity of:
(A) any person reporting known or suspected child abuse or neglect; and
(B) any other person if the person or agency making the information available finds that disclosure of the information would be likely to endanger the life or safety of the person.
(15) An employee of the department, a caseworker, or a juvenile probation officer conducting a criminal history check under IC 31-26-5, IC 31-34, or IC 31-37 to determine the appropriateness of an out-of-home placement for a:
(A) child at imminent risk of placement;
(B) child in need of services; or
(C) delinquent child.
The results of a criminal history check conducted under this subdivision must be disclosed to a court determining the placement of a child described in clauses (A) through (C).
(16) A local child fatality review team established under IC 16-49-2.
(17) The statewide child fatality review committee established by IC 16-49-4.
(18) The department.
(19) The division of family resources, if the investigation report:
(A) is classified as substantiated; and
(B) concerns:
(i) an applicant for a license to operate;

(ii) a person licensed to operate;
(iii) an employee of; or
(iv) a volunteer providing services at;
a child care center licensed under IC 12-17.2-4 or a child care home licensed under IC 12-17.2-5.
(20) A citizen review panel established under IC 31-25-2-20.4.
(21) The department of child services ombudsman established by IC 4-13-19-3.
(22) The state superintendent of public instruction with protection for the identity of:
(A) any person reporting known or suspected child abuse or neglect; and
(B) any other person if the person or agency making the information available finds that disclosure of the information would be likely to endanger the life or safety of the person.
(23) The state child fatality review coordinator employed by the state department of health under IC 16-49-5-1.
(24) A person who operates a child caring institution, group home, or secure private facility if all the following apply:
(A) The child caring institution, group home, or secure private facility is licensed under IC 31-27.
(B) The report or other materials concern:
(i) an employee of;
(ii) a volunteer providing services at; or
(iii) a child placed at;
the child caring institution, group home, or secure private facility.
(C) The allegation in the report occurred at the child caring institution, group home, or secure private facility.
(25) A person who operates a child placing agency if all the following apply:
(A) The child placing agency is licensed under IC 31-27.
(B) The report or other materials concern:
(i) a child placed in a foster home licensed by the child placing agency;
(ii) a person licensed by the child placing agency to operate a foster family home;
(iii) an employee of the child placing agency or a foster family home licensed by the child placing agency; or
(iv) a volunteer providing services at the child placing agency or a foster family home licensed by the child placing agency.
(C) The allegations in the report occurred in the foster family home or in the course of employment or volunteering at the child placing agency or foster family home.

As added by P.L.1-1997, SEC.16. Amended by P.L.70-2004, SEC.16; P.L.234-2005, SEC.155; P.L.145-2006, SEC.285; P.L.146-2006, SEC.43; P.L.138-2007, SEC.66; P.L.182-2009(ss), SEC.380; P.L.48-2012, SEC.39; P.L.119-2013, SEC.12; P.L.123-2014, SEC.20.

IC 31-33-18-3
Disclosure to qualified researchers

Sec. 3. (a) Section 2 of this chapter does not prevent the local office or the department from disclosing to a qualified individual engaged in a good faith research project either:

(1) information of a general nature, including the incidents of reported child abuse or neglect or other statistical or social data used in connection with studies, reports, or surveys, and information related to their function and activities; or

(2) information relating to case histories of child abuse or neglect if:

(A) the information disclosed does not identify or reasonably tend to identify the persons involved; and

(B) the information is not a subject of pending litigation.

(b) To implement this section, the department shall adopt under IC 4-22-2 rules to govern the dissemination of information to qualifying researchers.

As added by P.L.1-1997, SEC.16. Amended by P.L.234-2005, SEC.156; P.L.128-2012, SEC.155.

IC 31-33-18-4
Notice to parent, guardian, or custodian of availability of reports, information, and juvenile court records; release form; copying costs

Sec. 4. (a) Whenever a child abuse or neglect assessment is conducted under this article, the department shall give verbal and written notice to each parent, guardian, or custodian of the child that:

(1) the reports and information described under section 1 of this chapter relating to the child abuse or neglect assessment; and

(2) if the child abuse or neglect allegations are pursued in juvenile court, the juvenile court's records described under IC 31-39;

are available upon the request of the parent, guardian, or custodian except as prohibited by federal law.

(b) A parent, guardian, or custodian requesting information under this section may be required to sign a written release form that delineates the information that is requested before the information is made available. However, no other prerequisites for obtaining the information may be placed on the parent, guardian, or custodian except for reasonable copying costs.

As added by P.L.1-1997, SEC.16. Amended by P.L.234-2005, SEC.157; P.L.131-2009, SEC.53.

IC 31-33-18-5
Confidentiality of recordings of calls to child abuse hotline

Sec. 5. (a) An audio recording of a telephone call to the child abuse hotline is confidential and may be released only upon court order.

(b) An audio recording of a report of child abuse or neglect that is the subject of a complaint made to a prosecuting attorney under

IC 31-33-22-3 shall be released without a court order to the prosecuting attorney upon written request of the prosecuting attorney.
As added by P.L.48-2012, SEC.40.

IC 31-33-19
Repealed

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

IC 31-33-20
Repealed

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

IC 31-33-21
Repealed

(Repealed by P.L.146-2008, SEC.806.)

IC 31-33-22

Chapter 22. Offenses; Access to Unsubstantiated False Reports

IC 31-33-22-1

Failure to make report

Sec. 1. (a) A person who knowingly fails to make a report required by IC 31-33-5-1 commits a Class B misdemeanor.

(b) A person who knowingly fails to make a report required by IC 31-33-5-2 commits a Class B misdemeanor. This penalty is in addition to the penalty imposed by subsection (a).

As added by P.L.1-1997, SEC.16.

IC 31-33-22-2

Obtaining child abuse information under false pretenses; knowingly falsifying records or interfering with an investigation

Sec. 2. (a) An individual who knowingly requests, obtains, or seeks to obtain child abuse or neglect information under false pretenses commits a Class B misdemeanor.

(b) A person who knowingly or intentionally:

(1) falsifies child abuse or neglect information or records; or

(2) obstructs or interferes with a child abuse assessment, including an assessment conducted by a local child fatality review team or the statewide child fatality review committee;

commits obstruction of a child abuse assessment, a Class A misdemeanor.

As added by P.L.1-1997, SEC.16. Amended by P.L.70-2004, SEC.17; P.L.131-2009, SEC.54.

IC 31-33-22-3

False reports; criminal and civil liability; notification of prosecuting attorney

Sec. 3. (a) A person who intentionally communicates to:

(1) a law enforcement agency; or

(2) the department;

a report of child abuse or neglect knowing the report to be false commits a Class A misdemeanor. However, the offense is a Level 6 felony if the person has a previous unrelated conviction for making a report of child abuse or neglect knowing the report to be false.

(b) A person who intentionally communicates to:

(1) a law enforcement agency; or

(2) the department;

a report of child abuse or neglect knowing the report to be false is liable to the person accused of child abuse or neglect for actual damages. The finder of fact may award punitive damages and attorney's fees in an amount determined by the finder of fact against the person.

(c) The director or the director's designee shall, after review by the department's attorney, notify the prosecuting attorney whenever the director or the director's designee and the department's attorney have reason to believe that a person has violated this section.

(d) A person who:

(1) has reason to believe that the person is a victim of a false report of child abuse or neglect under this section; and

(2) is not named in a pending criminal charge or under assessment relating to the report;

may file a complaint with the prosecuting attorney. The prosecuting attorney shall review the relevant child abuse or neglect records of the department and any other relevant evidence.

As added by P.L.1-1997, SEC.16. Amended by P.L.234-2005, SEC.166; P.L.131-2009, SEC.55; P.L.158-2013, SEC.318.

IC 31-33-22-4

Failure to notify of name change

Sec. 4. A person who intentionally violates IC 31-33-17-10 commits a Class B misdemeanor.

As added by P.L.1-1997, SEC.16.

IC 31-33-22-5

Access by accused to false report

Sec. 5. A person who is accused of committing child abuse or neglect is entitled to access to a report relevant to an alleged false accusation filed under this article if a court finds that the report:

(1) is unsubstantiated; and

(2) was intentionally communicated to a law enforcement agency or the department by a person who knew the report was false.

As added by P.L.1-1997, SEC.16. Amended by P.L.234-2005, SEC.167.

IC 31-33-23
Repealed

(Repealed by P.L.48-2012, SEC.41.)

IC 31-33-24
Repealed

(Repealed by P.L.119-2013, SEC.13; P.L.205-2013, SEC.356.)

IC 31-33-25
Repealed

(Repealed by P.L.119-2013, SEC.14.)

IC 31-33-26
Chapter 26. Child Protection Index

IC 31-33-26-1
"Child care provider"; "index"

Sec. 1. (a) As used in this chapter, "child care provider" means a person who:

(1) provides child care (as defined in IC 12-7-2-28.2) regardless of whether the person is required to be licensed or registered under IC 12-17.2; or

(2) is a child caring institution, a foster family home, a group home, or a child placing agency that is licensed or required to be licensed under IC 31-27.

(b) As used in this chapter, "index" refers to the child protection index established under section 2 of this chapter.

As added by P.L.138-2007, SEC.67.

IC 31-33-26-2
Establishment and maintenance of child protection index

Sec. 2. The department shall establish and maintain a centralized, computerized child protection index to organize and access data regarding substantiated reports of child abuse and neglect that the department receives from throughout Indiana under this article.

As added by P.L.138-2007, SEC.67.

IC 31-33-26-3
Index components

Sec. 3. In addition to the equipment needed to establish, operate, and maintain the index, the index must include the following components:

(1) Automated risk assessment in which a family case manager or supervisor is able to review a substantiated child abuse or neglect case to determine prior case history during the intake, assessment, and case management processes.

(2) The capability to allow supervisors to monitor child abuse and neglect cases and reports relating to the cases.

(3) The automated production of standard reports to enable the automated compilation of information gathered on forms used by family case managers to report the information and results of child abuse and neglect cases. The index must also provide for the automation of other data for planning and evaluation as determined by the department.

(4) The capability of same day notification and transfer of statistical information to the department regarding new and closed child abuse and neglect cases.

(5) The enabling of child welfare supervisors to review a child abuse or neglect determination at any point after the assessment is initially classified as substantiated abuse or neglect, to confirm the status of the case, and to allow for the consolidated management of cases.

(6) The capability for adjusting the index's programming at a later date if additional reporting requirements occur.

(7) A word processing capability to allow case notes to be recorded with each substantiated child abuse and neglect case.

As added by P.L.138-2007, SEC.67. Amended by P.L.131-2009, SEC.56; P.L.128-2012, SEC.156.

IC 31-33-26-4

Case history file; automatic search requirements

Sec. 4. (a) In addition to the components described in section 3 of this chapter, the index must have the capability to maintain a case history file.

(b) Whenever a person enters a new child abuse or neglect report into the index, the index must have the capability to automatically search for reports that match the name of the:

(1) perpetrator;

(2) victim; or

(3) person who is legally responsible for the victim's welfare;

with the persons named in the new report as described in this chapter.

(c) If the index identifies a previous, substantiated report, the index must have the capability to transfer the report to the county where the new report originated not later than twenty-four (24) hours after receipt of the new report. If a previous, matching report is located, a case history extract must be made available to the assigned caseworker.

As added by P.L.138-2007, SEC.67.

IC 31-33-26-5

Establish access restrictions; maintain confidentiality; read only access by child services ombudsman

Sec. 5. (a) The department shall establish access restrictions in order to maintain the security and confidentiality of the index as required by this chapter.

(b) The department of child services ombudsman established by IC 4-13-19-3 shall have read only access to the index concerning:

(1) children who are the subject of complaints filed with; or

(2) cases being investigated by;

the department of child services ombudsman. The office of the department of child services ombudsman shall not have access to any information related to cases or information that involves the ombudsman or any member of the ombudsman's immediate family.

As added by P.L.138-2007, SEC.67. Amended by P.L.182-2009(ss), SEC.383; P.L.162-2011, SEC.47.

IC 31-33-26-6

Data storage and retrieval requirements

Sec. 6. The department shall store data regarding child abuse or neglect reports in a manner that allows the data to be retrieved based on the following, if known:

(1) The child's name.

(2) The child's date of birth.
(3) The alleged perpetrator's name.
(4) The child's mother's name.
(5) The child's father's name.
(6) The name of a sibling of the child.
(7) The name of the child's guardian or custodian if applicable.
As added by P.L.138-2007, SEC.67.

IC 31-33-26-7
Adoption of rules

Sec. 7. The department may adopt rules under IC 4-22-2 to ensure that the confidentiality of and access to reports of child abuse or neglect are maintained as provided in this chapter.
As added by P.L.138-2007, SEC.67.

IC 31-33-26-8
Notification after index entry; notice to perpetrators; request for administrative hearing

Sec. 8. (a) This section does not apply to substantiated reports if a court has determined that a child is a child in need of services based on:

(1) a report of child abuse or neglect that names the perpetrator as the individual who committed the child abuse or neglect; or
(2) facts presented to the court at a hearing in a child in need of services case commenced under IC 31-34 that are consistent with the facts and conclusions stated in the report, if the department approved the substantiated report after the court's determination.

(b) Not later than thirty (30) days after the department enters a substantiated child abuse or neglect report into the index, the department shall notify:

(1) the parent, guardian, or custodian of the child who is named in the report as the victim of the child abuse or neglect; and
(2) any person identified as the perpetrator, if other than the child's parent, guardian, or custodian;

that the department has entered the report into the index.

(c) The department shall state the following in a notice to the perpetrator of a substantiated report under subsection (b):

(1) The report has been classified as substantiated.
(2) The perpetrator may request that a substantiated report be amended or expunged at an administrative hearing if the perpetrator does not agree with the classification of the report unless a court is in the process of making a determination.
(3) The perpetrator's request for an administrative hearing to contest the classification of a substantiated report must be received by the department not more than thirty (30) days after the notice is served on the perpetrator as provided in IC 4-21.5-3-1(b). Time shall be computed as provided in IC 4-21.5-3-2.

(d) If the perpetrator fails to request an administrative hearing

within the time specified in subsection (c)(3), the perpetrator named in a substantiated report may request an administrative hearing to contest the classification of the report if the perpetrator demonstrates that the failure to request an administrative hearing was due to excusable neglect or fraud. The Indiana Rules of Civil Procedure provide the standard for excusable neglect or fraud.
As added by P.L.138-2007, SEC.67.

IC 31-33-26-9
Administrative hearings; evidentiary standards; consideration of hearsay; amendment or expungement of reports; confidentiality; decisions provided to the department of education

Sec. 9. (a) Except as provided in sections 11 and 12 of this chapter, the department shall conduct an administrative hearing upon a request made under section 8 of this chapter.

(b) At the administrative hearing, the department must prove by a preponderance of credible evidence that the perpetrator is responsible for the child's abuse or neglect.

(c) During an administrative hearing under this section, the administrative hearing officer shall consider hearsay evidence to be competent evidence and may not exclude hearsay based on the technical rules of evidence. If not objected to, the hearsay evidence may form the basis for an order. However, if the evidence is properly objected to and does not fall within a recognized exception to the hearsay rule, the resulting order may not be based solely upon the hearsay evidence.

(d) If the department fails to carry the burden of proof under subsection (b), the department shall amend or expunge the report as ordered by the administrative hearing officer within the period provided under section 15 of this chapter.

(e) The department shall maintain the confidentiality of an abuse or a neglect report during the administrative process.

(f) The administrative hearing shall be closed.

(g) The administrative files shall be closed and not disclosed to the public.

(h) The department shall provide a copy of a decision resulting from an administrative hearing under this section to the department of education if:

(1) the alleged perpetrator is licensed by the department of education; or

(2) the incident happened on school property or at a school function.

As added by P.L.138-2007, SEC.67. Amended by P.L.162-2011, SEC.48; P.L.48-2012, SEC.53.

IC 31-33-26-10
Administration of index

Sec. 10. The department shall administer the index in a manner that enables the department to do the following:

(1) Immediately identify and locate prior reports of child abuse

or neglect through the use of the department's:

(A) computerized tracking system; and

(B) automated risk assessment system.

(2) Track steps in the investigative process to ensure compliance with all requirements for a report of child abuse or neglect.

(3) Maintain and produce aggregate statistical reports monitoring patterns of child abuse and neglect that the department shall make available to the public upon request.

(4) Serve as a resource for the evaluation, management, and planning of preventive and remedial services to children who have been subject to child abuse or neglect.

As added by P.L.138-2007, SEC.67.

IC 31-33-26-11

Binding court determinations; stay of administrative hearings; perpetrator entitlement to administrative hearings

Sec. 11. (a) If a court having jurisdiction over a child in need of services case under IC 31-34 has determined or is anticipated to determine whether:

(1) a report of suspected child abuse or neglect is properly substantiated;

(2) child abuse or neglect occurred; or

(3) any person was a perpetrator of child abuse or neglect;

the determination of the court is binding.

(b) The administrative hearing under this chapter shall be stayed pending an anticipated action by the court.

(c) A person named as a perpetrator in a report of suspected child abuse or neglect is not entitled to an administrative hearing under this chapter if a court has determined that:

(1) the alleged child abuse or neglect did not occur; or

(2) the person was not a perpetrator of the alleged child abuse or neglect.

(d) The administrative hearing under this chapter shall be stayed pending the conclusion of any program of informal adjustment entered into by the perpetrator of the alleged child abuse or neglect.

As added by P.L.138-2007, SEC.67. Amended by P.L.48-2012, SEC.54.

IC 31-33-26-12

Criminal charges against a perpetrator; entitlement to administrative hearings

Sec. 12. (a) If criminal charges are filed against a perpetrator based on the same facts and circumstances on which the department classified a child abuse or neglect report as substantiated, any administrative hearing requested by the perpetrator under this chapter shall be stayed pending disposition of the criminal charges.

(b) If the criminal charges result in the conviction of the perpetrator and the facts that provided a necessary element for the conviction also provided the basis for the substantiated report under IC 31-33-8-12, the person named in the report as a perpetrator of

child abuse or neglect is not entitled to an administrative hearing under this chapter.
As added by P.L.138-2007, SEC.67.

IC 31-33-26-13
Adoption of rules

Sec. 13. The department shall adopt rules under IC 4-22-2:

(1) to provide procedures not inconsistent with section 9 of this chapter by which any person identified as a perpetrator in a substantiated report of child abuse or neglect that is entered into the child protection index may request and obtain an administrative hearing as provided in this chapter;

(2) to establish procedures for the conduct of the administrative hearing; and

(3) to establish provisions for administrative review by the department of a proposed or approved substantiated report, before or after an administrative hearing is available or conducted.

As added by P.L.138-2007, SEC.67.

IC 31-33-26-14
Amendment or expungement from index of inaccurate report

Sec. 14. The department shall immediately amend or expunge from the index a substantiated report containing an inaccuracy arising from an administrative or a clerical error.
As added by P.L.138-2007, SEC.67.

IC 31-33-26-15
Expungement and amendment of record procedures

Sec. 15. (a) The department shall expunge a substantiated report contained within the index not later than ten (10) working days after any of the following occurs:

(1) A court having jurisdiction over a child in need of services proceeding determines that child abuse or neglect has not occurred.

(2) An administrative hearing officer under this chapter finds that the child abuse or neglect report is unsubstantiated.

(3) A court having juvenile jurisdiction enters an order for expungement of the report under IC 31-33-27-5.

(b) The department shall amend a substantiated report contained in the index by deleting the name of an alleged perpetrator if:

(1) a court having jurisdiction over a child in need of services proceeding; or

(2) an administrative hearing officer under this chapter;

finds that the person was not a perpetrator of the child abuse or neglect that occurred.
As added by P.L.138-2007, SEC.67. Amended by P.L.131-2009, SEC.57; P.L.48-2012, SEC.55.

IC 31-33-26-16

Access to index information

Sec. 16. (a) A person or an organization may have access to information contained in the index as follows:

(1) A law enforcement agency may have access to a substantiated report for purposes of investigating or criminally prosecuting a person identified as a perpetrator of child abuse or neglect.

(2) A child care provider, upon submitting a written consent for release of information signed by an individual who:

(A) is employed by or who has applied for employment with the child care provider;

(B) has volunteered to provide services to the child care provider in a capacity that would place the individual in direct contact, on a regular and continuous basis, with children who are or will be under the direct supervision of the child care provider; or

(C) is at least eighteen (18) years of age and resides in the home of the child care provider;

may have access to any information relating to a substantiated report of child abuse or neglect that names the employee, applicant, volunteer, or household resident as the perpetrator of child abuse or neglect.

(3) A person may have access to any information that is contained in the index pertaining to the person, with protection for the identity of:

(A) a person who reports the child abuse or neglect; and

(B) any other appropriate person.

(4) A person or an agency to whom child abuse and neglect reports are available under IC 31-33-18 may have access to information contained in the index.

(5) Representatives of the division of family resources designated by the director of the division may have access to and use any information relating to a substantiated report of child abuse or neglect that would constitute a basis for denial or revocation of a license for a child care center under IC 12-17.2-4 or a child care home under IC 12-17.2-5.

(6) Representatives of the department designated by the director may have access to and use any information relating to a substantiated report of child abuse or neglect that would constitute a basis for denial or revocation of a license for a child caring institution, foster family home, group home, or child placing agency under IC 31-27.

(7) Any representative of the department, a court having juvenile jurisdiction, and any party in a case under IC 31-34 or IC 31-37 may have access to and use any information relating to a substantiated report of child abuse or neglect in connection with a determination of an appropriate out of home placement for a child under any applicable provision of IC 31-34 or IC 31-37 that requires a criminal history check (as described in IC 31-9-2-22.5) concerning any person.

(8) The department shall provide any information contained in a substantiated report of child abuse or neglect that is included in the index to an authorized agency of another state that requests information concerning a prospective foster or adoptive parent, or any other adult living in the home of a prospective foster or adoptive parent, in accordance with 42 U.S.C. 671(a)(20)(C).

(9) The department shall transmit or provide to a national index of substantiated cases of child abuse or neglect established in accordance with 42 U.S.C. 16990:

(A) a copy of any substantiated report and related information entered into the index; and

(B) information concerning expungement or amendment of any substantiated report as provided in section 14 or 15 of this chapter.

(10) To determine the eligibility of a child care provider to receive a voucher payment (as defined in IC 12-17.2-3.5-3), the division of family resources may use information contained in the index concerning whether a child has been found by a court to be a child in need of services based on a report of child abuse or neglect naming an individual described in IC 12-17.2-3.5-4.1(a) as a perpetrator.

(b) Except as provided in this section or in rules adopted under subsection (c), the department may not disclose information used in connection with the department's activities under this section.

(c) The department shall adopt rules under IC 4-22-2 relating to the procedure for disclosure of information described in this section.

As added by P.L.138-2007, SEC.67.

IC 31-33-26-17

Name changes

Sec. 17. (a) If a court grants a name change under IC 34-28-2 (or IC 34-4-6 before its repeal) to a person:

(1) against whom an allegation of child abuse or neglect has been substantiated; and

(2) whose name is maintained within the index in accordance with this chapter;

the person must notify the department regarding the name change not more than ten (10) business days after the court enters a decree changing the person's name.

(b) The notice under subsection (a) must include a copy of the decree of the court that changes the name of the person, certified under the seal of the clerk of court.

As added by P.L.138-2007, SEC.67.

IC 31-33-26-18

Transfer of records to the index

Sec. 18. On July 1, 2007, all substantiated reports and other documents relating to child abuse or neglect cases contained in the child abuse registry under IC 31-33-17 (before its repeal) and the

automated child protection system under IC 31-33-20 (before its repeal) shall be transferred to and be included in the child protection index. The department shall maintain and administer all reports and documents transferred to and included in the child protection index as provided in this chapter.

As added by P.L.138-2007, SEC.67.

IC 31-33-27

Chapter 27. Expungement of Child Abuse or Neglect Reports

IC 31-33-27-1

"Expunge" or "Expungement"

Sec. 1. As used in this chapter, "expunge" or "expungement" means:

(1) the removal or deletion of all information maintained by the department concerning a report, assessment, or determination under this article relating to an incident or condition of child abuse or neglect; and

(2) the destruction or delivery of the information to a person to whom the information pertains.

As added by P.L.48-2012, SEC.56.

IC 31-33-27-2

"Information"

Sec. 2. As used in this chapter, "information" includes all files and records created or maintained by the department. The term includes the original and copies of documents, correspondence, messages, photographs, videotapes, audio recordings, audiovisual recordings, and any other material contained in electronic, paper, or digital form or in other media.

As added by P.L.48-2012, SEC.56.

IC 31-33-27-3

Expungement of records; retained information; adoption of rules

Sec. 3. (a) The department shall expunge child abuse or neglect information not later than twenty-four (24) years after the date of birth of the youngest child named in the department's assessment report as an alleged victim of child abuse or neglect, if:

(1) the department approved the assessment as unsubstantiated; or

(2) the court in a child in need of services case entered a final judgment based on a finding that child abuse or neglect did not occur.

(b) The department may, upon the request of an interested person, expunge information relating to an unsubstantiated assessment of child abuse or neglect at any time, if the department determines that the probative value of the information does not justify its retention in the records of the department.

(c) This subsection applies to information that is not expunged under subsection (a) or (b). The department may retain information relating to an unsubstantiated assessment of child abuse or neglect in paper or digital form or in other media that is accessible only by department employees with access rights established by the department through policy or rule.

(d) Information that is retained in the records of the department under subsection (c) may be used by the department to facilitate its assessment of a subsequent report concerning the same child or

family.

(e) The department may not rely solely on information available under subsection (c) to support substantiation of a later report, if information obtained in the assessment of the later report is otherwise insufficient to support a substantiated determination.

(f) The department shall adopt a written policy, and may adopt rules under IC 4-22-2, regarding access to information retained under subsection (c).

As added by P.L.48-2012, SEC.56.

IC 31-33-27-4

Expungement of records; amended information

Sec. 4. (a) The department shall expunge child abuse or neglect information relating to a substantiated report not later than the time specified for expungement of the report from the child protection index under IC 31-33-26-15.

(b) The department shall amend information relating to a substantiated report by deleting the name of a person as an alleged perpetrator if:

(1) a court having jurisdiction over a child in need of services proceeding; or

(2) an administrative hearing officer under IC 31-33-26-9;

finds that the person was not a perpetrator of the child abuse or neglect that occurred.

As added by P.L.48-2012, SEC.56.

IC 31-33-27-5

Substantiated reports; perpetrator petitions for expungements

Sec. 5. (a) This section applies to information relating to substantiated reports in any records of the department.

(b) An individual identified as a perpetrator of child abuse or neglect in a substantiated report may file a petition with a court exercising juvenile jurisdiction in the county in which the individual resides, requesting that the court order the department to expunge the substantiated report and related information.

(c) The petitioner shall:

(1) name the department as respondent in the petition; and

(2) serve the department with a copy of the petition and a summons.

(d) The court shall hold a hearing on the petition and any response filed by the department, unless a hearing is waived by agreement of the parties.

(e) In considering whether to grant a petition filed under this section, the court may review:

(1) the factors listed in IC 31-39-8-3 in relation to the petitioner, if the substantiated report was the subject of a juvenile court case; and

(2) any facts relating to the petitioner's current status, activities, employment, contacts with children, or other circumstances relevant to consideration of whether the petition should be

granted.

(f) The court may grant the petition if the court finds, by clear and convincing evidence, that:

(1) there is little likelihood that the petitioner will be a future perpetrator of child abuse or neglect; and

(2) the information has insufficient current probative value to justify its retention in records of the department for future reference.

As added by P.L.48-2012, SEC.56.

IC 31-33-27-6

Use of expunged records in civil action

Sec. 6. If the department expunges child abuse or neglect information under this chapter:

(1) at the request of a perpetrator named in an assessment report;

(2) at or after the time for expungement specified in section 4(a) of this chapter; or

(3) under a court order under section 5 of this chapter;

IC 31-39-8-7 applies to any civil action brought against the department or any other agency, entity, or individual, if the content of the expunged information may be relevant to any issue in the civil action.

As added by P.L.48-2012, SEC.56.

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

(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; 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 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.

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

Repealed

(Repealed by P.L.63-2012, SEC.36.)

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 Level 6 felony if the alleged perpetrator has a prior unrelated conviction under this section.
As added by P.L.52-2007, SEC.8. Amended by P.L.158-2013, SEC.320.

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 thirty (30) 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 the person's name.

As added by P.L.133-2000, SEC.3. Amended by P.L.217-2001, SEC.5; P.L.128-2012, SEC.158.

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

Repealed

(Repealed by P.L.63-2012, SEC.37.)

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 relative; or

(2) de facto custodian;

before considering any other out-of-home placement.

(b) The department shall consider placing a child described in subsection (a) with a relative related by blood, marriage, or adoption before considering any other placement of the child.

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

(d) Except as provided in subsection (f), before placing a child in need of services in an out-of-home placement, 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.

(e) Except as provided in subsection (g), the department may not make an out-of-home placement if a person described in subsection (d) 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.

(f) The department is not required to conduct a criminal history check under subsection (d) 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.

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

(1) a person described in subsection (d) 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) (repealed) 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;

(vii) a felony under IC 9-30-5; or

(viii) a felony that is substantially equivalent to a felony listed in items (i) through (vii) 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).

(h) In considering the placement under subsection (g), 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; P.L.128-2012, SEC.159; P.L.158-2013, SEC.321; P.L.123-2014, SEC.21.

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

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 department shall file a notice with the Indiana judicial center.

As added by P.L.146-2008, SEC.579. Amended by P.L.48-2012, SEC.57.

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 relative or de facto custodian; evaluation; background checks

Sec. 2. (a) A juvenile court or the department shall consider placing a child alleged to be a child in need of services with a suitable and willing relative or de facto custodian of the child before considering any other placement for the child.

(b) A juvenile court or the department shall consider placing a child described in subsection (a) with a relative related by blood, marriage, or adoption before considering any other placement of the child.

(c) Before a child is placed with a relative or de facto custodian, a home evaluation and background checks described in IC 31-34-4-2 are required.

As added by P.L.1-1997, SEC.17. Amended by P.L.146-2008, SEC.581; P.L.123-2014, SEC.22.

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; deadlines and procedures

Sec. 1. (a) 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.

(b) A prosecuting attorney:

(1) may request the juvenile court to authorize the filing of a petition alleging that a child is a child in need of services under IC 31-34-1; and

(2) shall represent the interests of the state at this proceeding and at all subsequent proceedings on the petition, unless the prosecuting attorney and the department agree that the department shall represent the interests of the state at this proceeding and at all subsequent proceedings on the petition.

(c) If a prosecuting attorney is representing the interests of the state at a subsequent proceeding after a petition is filed under this section, all deadlines and procedures concerning children in need of services under this article apply to the prosecuting attorney to the same extent as they apply to the department.

As added by P.L.1-1997, SEC.17. Amended by P.L.145-2006, SEC.294; P.L.146-2008, SEC.588; P.L.236-2013, SEC.1.

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 within ten (10) days after the filing of the 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; P.L.48-2012, SEC.58.

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.

(d) If the factfinding hearing is not held within the time set forth in subsection (a) or (b), upon a motion with the court, the court shall dismiss the case without prejudice.

As added by P.L.1-1997, SEC.17. Amended by P.L.146-2006, SEC.46; P.L.138-2007, SEC.71; P.L.48-2012, SEC.59.

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;

(3) the injury would not ordinarily be sustained except for the act or omission of a parent, guardian, or custodian; and

(4) there is a reasonable probability that the injury was not accidental.

As added by P.L.1-1997, SEC.17. Amended by P.L.48-2012, SEC.60.

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 or neglected 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. Amended by P.L.128-2012, SEC.160.

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:

(1) an action initiated to determine if a child is a child in need of services under:

(A) IC 31-34-1-1 through IC 31-34-1-6;

(B) IC 31-34-1-10; or

(C) IC 31-34-1-11; and

(2) an administrative hearing conducted under IC 31-33-26-9 or IC 31-27-4-23.

As added by P.L.1-1997, SEC.17. Amended by P.L.48-2012, SEC.61.

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 local 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; P.L.128-2012, SEC.161.

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 local office as a result of a court ordered out-of-home placement.

(b) The department or the local 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 local 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; P.L.128-2012, SEC.162.*

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. (a) 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.

(b) If the dispositional hearing is not completed in the time set forth in subsection (a), upon a filing of a motion with the court, the court shall dismiss the case without prejudice.

As added by P.L.1-1997, SEC.17. Amended by P.L.55-1997, SEC.20; P.L.146-2006, SEC.48; P.L.48-2012, SEC.62.

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 local office 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 local office or the department, the juvenile court may not release the local office from the obligations of the local 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; P.L.128-2012, SEC.163.

IC 31-34-19-5

Release of local office or the department of child services from obligations to child placed in state institution

Sec. 5. If the court authorizes a child who is under the custody or supervision of a local 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 local 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; P.L.128-2012, SEC.164.

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 or a modification to a dispositional decree; department consideration of juvenile court recommendations; written findings by juvenile court; appeal by department

Sec. 6.1. (a) Before entering its dispositional decree or a modification to a 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 or modification 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 or modification 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 department shall file a notice with the Indiana judicial center.

As added by P.L.146-2008, SEC.601. Amended by P.L.48-2012, SEC.63.

IC 31-34-19-7

Placement of child; relative; evaluation; background checks

Sec. 7. (a) 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 relative before considering other out-of-home placements for the child.

(b) A juvenile court shall consider placing a child described in subsection (a) with a relative related by blood, marriage, or adoption before considering any other placement of the child.

(c) Before a child is placed with a relative or de facto custodian, a home evaluation and background checks described in IC 31-34-4-2 are required.

As added by P.L.1-1997, SEC.17. Amended by P.L.70-2004, SEC.20; P.L.234-2005, SEC.182; P.L.123-2014, SEC.23.

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 comparablefacility 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) (repealed) 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;
(vii) a felony under IC 9-30-5; or
(viii) a felony that is substantially equivalent to a felony listed in items (i) through (vii) 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; P.L.128-2012, SEC.165; P.L.158-2013, SEC.322.

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; P.L.65-2012, SEC.6; P.L.160-2012, SEC.57.

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 local office 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 local office 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 local office 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. Amended by P.L.128-2012, SEC.166.

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 local 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; P.L.128-2012, SEC.167.

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.

(c) The department may, before reunification of the child with a parent, guardian, or custodian, conduct a criminal history check (as defined in IC 31-9-2-22.5) of:

(1) the child's:

(A) parent;

(B) guardian; or

(C) custodian; or

(2) a household member of the:

(A) parent;

(B) guardian; or

(C) custodian.

(d) The department may use the results of a criminal history check conducted under subsection (c) to decide whether it is safe for the child to return home.

As added by P.L.35-1998, SEC.12. Amended by P.L.1-1999, SEC.62; P.L.145-2006, SEC.319; P.L.48-2012, SEC.64.

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 as a Class A felony (for a crime committed before July 1, 2014) or Level 2 felony (for a crime committed after June 30, 2014);

(B) battery as a Class B felony (for a crime committed before July 1, 2014) or Level 3 or Level 4 felony (for a crime committed after June 30, 2014);

(C) battery as a Class C felony (for a crime committed before July 1, 2014) or Level 5 felony (for a crime committed after June 30, 2014);

(D) aggravated battery (IC 35-42-2-1.5);

(E) criminal recklessness (IC 35-42-2-2) as a Class C felony (for a crime committed before July 1, 2014) or a Level 5 felony (for a crime committed after June 30, 2014);

(F) neglect of a dependent (IC 35-46-1-4) as a Class B felony (for a crime committed before July 1, 2014) or a Level 1 or Level 3 felony (for a crime committed after June 30, 2014); 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; P.L.158-2013, SEC.323.

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.

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

(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; P.L.48-2012, SEC.65.

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 local 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 local 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; P.L.128-2012, SEC.168.

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;

(B) been convicted of:

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

(ii) criminal confinement (IC 35-42-3-3) as a felony;

(iii) carjacking (IC 35-42-5-2) (repealed);

(iv) arson (IC 35-43-1-1) as a felony;

(v) a felony involving a weapon under IC 35-47 or a felony involving controlled explosives under IC 35-47.5;

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

(vii) a felony under IC 9-30-5; or

(viii) a felony that is substantially equivalent to a felony listed in items (i) through (vii) 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 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; P.L.128-2012, SEC.169; P.L.158-2013, SEC.324.

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.

IC 31-35

ARTICLE 35. JUVENILE LAW: TERMINATION OF PARENT-CHILD RELATIONSHIP

IC 31-35-1

Chapter 1. Voluntary Termination of Parent-Child Relationship by Parents

IC 31-35-1-1

Application of chapter

Sec. 1. This chapter applies to the voluntary termination of the parent-child relationship by parents.

As added by P.L.1-1997, SEC.18.

IC 31-35-1-2

Law governing proceedings

Sec. 2. Proceedings under this chapter are governed by the procedures prescribed by:

(1) IC 31-32-1, IC 31-32-4 through IC 31-32-10, and IC 31-32-12 through IC 31-32-15;

(2) IC 31-34; and

(3) IC 31-37;

but are distinct from proceedings under IC 31-34 and IC 31-37.

As added by P.L.1-1997, SEC.18.

IC 31-35-1-3

Jurisdiction

Sec. 3. The probate court has concurrent original jurisdiction with the juvenile court in proceedings on a petition filed under this chapter for the voluntary termination of the parent-child relationship.

As added by P.L.1-1997, SEC.18.

IC 31-35-1-4

Petition; verification and contents

Sec. 4. (a) If requested by the parents:

(1) the local office; or

(2) a licensed child placing agency;

may sign and file a verified petition with the juvenile or probate court for the voluntary termination of the parent-child relationship.

(b) The petition must:

(1) be entitled "In the Matter of the Termination of the Parent-Child Relationship of _____, a child, and _____, the child's parent (or parents)"; and

(2) allege that:

(A) the parents are the child's natural or adoptive parents;

(B) the parents, including the alleged or adjudicated father if the child was born out of wedlock:

(i) knowingly and voluntarily consent to the termination of the parent-child relationship; or

(ii) are not required to consent to the termination of the

parent-child relationship under section 6(c) of this chapter;

(C) termination is in the child's best interest; and

(D) the petitioner has developed a satisfactory plan of care and treatment for the child.

As added by P.L.1-1997, SEC.18. Amended by P.L.200-1999, SEC.25; P.L.146-2007, SEC.12; P.L.128-2012, SEC.170.

IC 31-35-1-4.5

Putative father's consent to termination irrevocably implied

Sec. 4.5. The putative father's consent to the termination of the parent-child relationship is irrevocably implied without further court action if the father:

(1) fails to file a paternity action under IC 31-14 or in a court located in another state that is competent to obtain jurisdiction over the paternity action, not more than thirty (30) days after receiving actual notice under IC 31-19-3 of the mother's intent to proceed with an adoptive placement of the child, regardless of whether:

(A) the child is born before or after the expiration of the thirty (30) day period; or

(B) a petition for adoption or for the termination of the parent-child relationship is filed; or

(2) files a paternity action:

(A) under IC 31-14; or

(B) in a court located in another state that is competent to obtain jurisdiction over the paternity action;

during the thirty (30) day period prescribed by subdivision (1) and fails to establish paternity in the paternity proceeding within a reasonable period determined under IC 31-14-21-9 through IC 31-14-21-9.2 or the laws applicable to a court of another state when the court obtains jurisdiction over the paternity action.

As added by P.L.200-1999, SEC.26. Amended by P.L.1-2010, SEC.126.

IC 31-35-1-5

Notice of hearing; waiver

Sec. 5. (a) Except as provided in subsection (b), the parents shall be notified of the hearing in accordance with IC 31-32-9.

(b) A parent who has made a valid consent to the termination of a parent-child relationship may waive the notice required by subsection (a) if the waiver:

(1) is in writing either:

(A) in the parent's consent to terminate the parent-child relationship; or

(B) in a separate document;

(2) is signed by the parent in the presence of a notary public; and

(3) contains an acknowledgment that:

(A) the waiver is irrevocable; and

(B) the parent will not receive notice of:
(i) adoption; or
(ii) termination of parent-child relationship;
proceedings.

As added by P.L.1-1997, SEC.18. Amended by P.L.146-2007, SEC.13.

IC 31-35-1-6
Consent; written denial of paternity or consent to termination of relationship before birth of child bars challenge to adoptions or termination of parental rights

Sec. 6. (a) Except as provided in subsection (c), the parents must give their consent in open court unless the court makes findings of fact upon the record that:

(1) the parents gave their consent in writing before a person authorized by law to take acknowledgments; and
(2) the parents were:
(A) advised in accordance with section 12 of this chapter; and
(B) advised that if they choose to appear in open court, the only issue before the court is whether their consent was voluntary.

(b) If:

(1) the court finds the conditions under subsection (a)(1) and (a)(2) have been met; and
(2) a parent appears in open court;

a court may consider only the issue of whether the parent's consent was voluntary.

(c) The consent of a parent to the termination of the parent-child relationship under this chapter is not required if:

(1) consent to the termination of the parent-child relationship is implied under section 4.5 of this chapter, if the parent is the putative father;
(2) the parent's consent to the adoption of the child would not be required under:
(A) IC 31-19-9-8;
(B) IC 31-19-9-9; or
(C) IC 31-19-9-10;
(3) the child's biological father denies paternity of the child before or after the birth of the child if the denial of paternity:
(A) is in writing;
(B) is signed by the child's father in the presence of a notary public; and
(C) contains an acknowledgment that:
(i) the denial of paternity is irrevocable; and
(ii) the child's father will not receive notice of adoption or termination of parent-child relationship proceedings; or
(4) the child's biological father consents to the termination of the parent-child relationship before the birth of the child if the consent:

(A) is in writing;
(B) is signed by the child's father in the presence of a notary public; and
(C) contains an acknowledgment that:
(i) the consent to the termination of the parent-child relationship is irrevocable; and
(ii) the child's father will not receive notice of adoption or termination of parent-child relationship proceedings.

A child's father who denies paternity of the child under subdivision (3) or consents to the termination of the parent-child relationship under subdivision (4) may not challenge or contest the child's adoption or termination of the parent-child relationship.

(d) A child's mother may not consent to the termination of the parent-child relationship before the birth of the child.

As added by P.L.1-1997, SEC.18. Amended by P.L.200-1999, SEC.27; P.L.130-2005, SEC.12; P.L.146-2007, SEC.14; P.L.58-2009, SEC.31.

IC 31-35-1-7

Inquiry on parents' absence; investigation of fraud, duress, and competency to consent; order for child's care pending outcome of case

Sec. 7. (a) Before the court may enter a termination order, the court:
(1) must inquire about the reasons for the parents' absence; and
(2) may require an investigation by a probation officer to:
(A) determine whether there is any evidence of fraud or duress; and
(B) establish that the parents were competent to give their consent.

(b) An investigation conducted under subsection (a) must be entered on the record under oath by the person responsible for making the investigation.

(c) If there is any competent evidence of probative value that:
(1) fraud or duress was present when the written consent was given; or
(2) a parent was incompetent;

the court shall dismiss the petition or continue the proceeding.

(d) The court may issue any appropriate order for the care of the child pending the outcome of the case.

As added by P.L.1-1997, SEC.18.

IC 31-35-1-8

Advice to parents

Sec. 8. Before consent may be given in court, the court must advise the parents of:
(1) their constitutional and other legal rights; and
(2) the consequences of their actions under section 12 of this chapter.

As added by P.L.1-1997, SEC.18.

IC 31-35-1-9
Consent by incompetent or minor parent

Sec. 9. (a) Except as provided in subsection (b), a parent who is incompetent may give consent to termination only with the approval of the court or of the parent's guardian.

(b) A person who is less than eighteen (18) years of age and who is a parent may give the person's consent without the approval of the court or of the parent's guardian if the person is competent except for the person's age.

As added by P.L.1-1997, SEC.18.

IC 31-35-1-10
Determination

Sec. 10. (a) If:

(1) the court determines that the allegations in the petition described in section 4 of this chapter are true; and

(2) the other requirements of this article are met;

the court shall terminate the parent-child relationship.

(b) Except as provided in section 11 of this chapter, if the requirements of subsection (a)(1) or (a)(2) are not met, the court shall dismiss the petition.

As added by P.L.1-1997, SEC.18.

IC 31-35-1-11
Default judgment; waiver of notice

Sec. 11. (a) If the court makes findings of fact upon the record that:

(1) one (1) parent has made a valid consent to the termination of the parent-child relationship;

(2) the other parent:

(A) is required under this chapter to consent to the termination of the parent-child relationship;

(B) cannot be located, after a good faith effort has been made to do so, or has been located but fails to appear at the termination hearing; and

(C) has been served with notice of the hearing in the most effective means under the circumstances; and

(3) the investigation that may be required by section 7 of this chapter has been completed and entered on the record;

the court may enter a default judgment against the unavailable parent and terminate as to both parents.

(b) A parent may waive the notice required by subsection (a)(2)(C) if the waiver:

(1) is in writing;

(2) is signed by the parent in the presence of a notary public; and

(3) contains an acknowledgment that:

(A) the waiver is irrevocable; and

(B) the parent will not receive notice of:

(i) adoption; or

(ii) termination of parent-child relationship;
proceedings.

(c) A parent who waives notice under subsection (b) may not challenge or contest:

(1) the termination of the parent-child relationship; or

(2) the child's adoption.

As added by P.L.1-1997, SEC.18. Amended by P.L.200-1999, SEC.28; P.L.130-2005, SEC.13.

IC 31-35-1-12

Contents of advice to parents

Sec. 12. For purposes of sections 6 and 8 of this chapter, the parents must be advised that:

(1) their consent is permanent and cannot be revoked or set aside unless it was obtained by fraud or duress or unless the parent is incompetent;

(2) when the court terminates the parent-child relationship:

(A) all rights, powers, privileges, immunities, duties, and obligations, including any rights to custody, control, parenting time, or support pertaining to the relationship, are permanently terminated; and

(B) their consent to the child's adoption is not required;

(3) the parents have a right to the:

(A) care;

(B) custody; and

(C) control;

of their child as long as the parents fulfill their parental obligations;

(4) the parents have a right to a judicial determination of any alleged failure to fulfill their parental obligations in a proceeding to adjudicate their child a delinquent child or a child in need of services;

(5) the parents have a right to assistance in fulfilling their parental obligations after a court has determined that the parents are not doing so;

(6) proceedings to terminate the parent-child relationship against the will of the parents can be initiated only after:

(A) the child has been adjudicated a delinquent child or a child in need of services and removed from their custody following the adjudication; or

(B) a parent has been convicted and imprisoned for an offense listed in IC 31-35-3-4 (or has been convicted and imprisoned for an offense listed in IC 31-6-5-4.2(a) before its repeal), the child has been removed from the custody of the parents under a dispositional decree, and the child has been removed from the custody of the parents for six (6) months under a court order;

(7) the parents are entitled to representation by counsel, provided by the state if necessary, throughout any proceedings to terminate the parent-child relationship against the will of the

parents;

(8) the parents will receive notice of the hearing, unless notice is waived under section 5(b) of this chapter, at which the court will decide if their consent was voluntary, and the parents may appear at the hearing and allege that the consent was not voluntary; and

(9) the parents' consent cannot be based upon a promise regarding the child's adoption or contact of any type with the child after the parents voluntarily relinquish their parental rights of the child after entry of an order under this chapter terminating the parent-child relationship.

As added by P.L.1-1997, SEC.18. Amended by P.L.68-2005, SEC.56; P.L.146-2007, SEC.15; P.L.128-2012, SEC.171.

IC 31-35-2

Chapter 2. Termination of Parent-Child Relationship Involving a Delinquent Child or a Child in Need of Services

IC 31-35-2-1

Application of chapter

Sec. 1. This chapter applies to the termination of the parent-child relationship involving:

(1) a delinquent child; or

(2) a child in need of services.

As added by P.L.1-1997, SEC.18.

IC 31-35-2-2

Law governing proceedings

Sec. 2. Proceedings under this chapter are governed by the procedures prescribed by:

(1) IC 31-32-1, IC 31-32-4 through IC 31-32-10, and IC 31-32-12 through IC 31-32-15;

(2) IC 31-34; and

(3) IC 31-37;

but are distinct from proceedings under IC 31-34 and IC 31-37.

As added by P.L.1-1997, SEC.18.

IC 31-35-2-3

Jurisdiction

Sec. 3. The probate court has concurrent original jurisdiction with the juvenile court in proceedings on a petition to terminate the parent-child relationship involving a delinquent child or a child in need of services under this chapter.

As added by P.L.1-1997, SEC.18.

IC 31-35-2-4

Petition; contents

Sec. 4. (a) A petition to terminate the parent-child relationship involving a delinquent child or a child in need of services may be signed and filed with the juvenile or probate court by any of the following:

(1) The attorney for the department.

(2) The child's court appointed special advocate.

(3) The child's guardian ad litem.

(b) The petition must meet the following requirements:

(1) The petition must be entitled "In the Matter of the Termination of the Parent-Child Relationship of _____, a child, and _____, the child's parent (or parents)".

(2) The petition must allege:

(A) that one (1) of the following is true:

(i) The child has been removed from the parent for at least six (6) months under a dispositional decree.

(ii) A court has entered a finding under IC 31-34-21-5.6 that reasonable efforts for family preservation or

reunification are not required, including a description of the court's finding, the date of the finding, and the manner in which the finding was made.

(iii) The child has been removed from the parent and has been under the supervision of a local office or probation department for at least fifteen (15) months of the most recent twenty-two (22) months, beginning with the date the child is removed from the home as a result of the child being alleged to be a child in need of services or a delinquent child;

(B) that one (1) of the following is true:

(i) There is a reasonable probability that the conditions that resulted in the child's removal or the reasons for placement outside the home of the parents will not be remedied.

(ii) There is a reasonable probability that the continuation of the parent-child relationship poses a threat to the well-being of the child.

(iii) The child has, on two (2) separate occasions, been adjudicated a child in need of services;

(C) that termination is in the best interests of the child; and

(D) that there is a satisfactory plan for the care and treatment of the child.

(3) If the department intends to file a motion to dismiss under section 4.5 of this chapter, the petition must indicate whether at least one (1) of the factors listed in section 4.5(d)(1) through 4.5(d)(3) of this chapter applies and specify each factor that would apply as the basis for filing a motion to dismiss the petition.

As added by P.L.1-1997, SEC.18. Amended by P.L.35-1998, SEC.19; P.L.200-1999, SEC.29; P.L.146-2008, SEC.615; P.L.131-2009, SEC.65; P.L.21-2010, SEC.8; P.L.48-2012, SEC.66.

IC 31-35-2-4.5

Petition; filing; motion to dismiss

Sec. 4.5. (a) This section applies if:

(1) a court has made a finding under IC 31-34-21-5.6 that reasonable efforts for family preservation or reunification with respect to a child in need of services are not required; or

(2) a child in need of services or a delinquent child:

(A) has been placed in:

(i) a foster family home, child caring institution, or group home licensed under IC 31-27; or

(ii) the home of a relative (as defined in IC 31-9-2-107(c)); as directed by a court in a child in need of services proceeding under IC 31-34 or a delinquency action under IC 31-37; and

(B) has been removed from a parent and has been under the supervision of the department or county probation department for not less than fifteen (15) months of the most recent twenty-two (22) months, beginning with the date the

child is removed from the home as a result of the child being alleged to be a child in need of services or a delinquent child.

(b) A person described in section 4(a) of this chapter shall:

(1) file a petition to terminate the parent-child relationship under section 4 of this chapter; and

(2) request that the petition be set for hearing.

(c) If a petition under subsection (b) is filed by the child's court appointed special advocate or guardian ad litem, the department shall be joined as a party to the petition.

(d) A person described in section 4(a) of this chapter may file a motion to dismiss the petition to terminate the parent-child relationship if any of the following circumstances apply:

(1) That the current case plan prepared by or under the supervision of the department or the probation department under IC 31-34-15, IC 31-37-19-1.5, or IC 31-37-22-4 has documented a compelling reason, based on facts and circumstances stated in the petition or motion, for concluding that filing, or proceeding to a final determination of, a petition to terminate the parent-child relationship is not in the best interests of the child. A compelling reason may include the fact that the child is being cared for by a custodian who is a relative (as defined in IC 31-9-2-107(c)).

(2) That:

(A) IC 31-34-21-5.6 is not applicable to the child;

(B) the department or the probation department has not provided family services to the child, parent, or family of the child in accordance with a currently effective case plan prepared under IC 31-34-15 or IC 31-37-19-1.5 or a permanency plan or dispositional decree approved under IC 31-34 or IC 31-37, for the purpose of permitting and facilitating safe return of the child to the child's home; and

(C) the period for completion of the program of family services, as specified in the current case plan, permanency plan, or decree, has not expired.

(3) That:

(A) IC 31-34-21-5.6 is not applicable to the child;

(B) the department has not provided family services to the child, parent, or family of the child, in accordance with applicable provisions of a currently effective case plan prepared under IC 31-34-15 or IC 31-37-19-1.5, or a permanency plan or dispositional decree approved under IC 31-34 or IC 31-37; and

(C) the services that the department has not provided are substantial and material in relation to implementation of a plan to permit safe return of the child to the child's home.

The motion to dismiss shall specify which of the allegations described in subdivisions (1) through (3) apply to the motion. If the court finds that any of the allegations described in subdivisions (1) through (3) are true, as established by a preponderance of the evidence, the court shall dismiss the petition to terminate the

parent-child relationship.
As added by P.L.35-1998, SEC.20. Amended by P.L.200-1999, SEC.30; P.L.146-2008, SEC.616; P.L.131-2009, SEC.66; P.L.48-2012, SEC.67; P.L.123-2014, SEC.24.

IC 31-35-2-5
Representation of state's interests

Sec. 5. Upon the filing of a petition under section 4 of this chapter, the attorney for the department shall represent the interests of the state in all subsequent proceedings on the petition.
As added by P.L.1-1997, SEC.18. Amended by P.L.146-2008, SEC.617.

IC 31-35-2-6
Request for hearing; timing of hearing; dismissal of petition

Sec. 6. (a) Except when a hearing is required after June 30, 1999, under section 4.5 of this chapter, the person filing the petition shall request the court to set the petition for a hearing. Whenever a hearing is requested under this chapter, the court shall:

(1) commence a hearing on the petition not more than ninety (90) days after a petition is filed under this chapter; and

(2) complete a hearing on the petition not more than one hundred eighty (180) days after a petition is filed under this chapter.

(b) If a hearing is not held within the time set forth in subsection (a), upon filing a motion with the court by a party, the court shall dismiss the petition to terminate the parent-child relationship without prejudice.
As added by P.L.1-1997, SEC.18. Amended by P.L.35-1998, SEC.21; P.L.146-2006, SEC.54; P.L.48-2012, SEC.68.

IC 31-35-2-6.5
Notice of hearing

Sec. 6.5. (a) This section applies to hearings under this chapter relating to a child in need of services.

(b) At least ten (10) days before a hearing on a petition or motion under this chapter:

(1) the person or entity who filed the petition to terminate the parent-child relationship under section 4 of this chapter; or

(2) the person or entity who filed a motion to dismiss the petition to terminate the parent-child relationship under section 4.5(d) of this chapter;

shall send notice of the review to the persons listed in subsections (c) and (d).

(c) Except as provided in subsection (h), the following persons shall receive notice of a hearing on a petition or motion filed under this chapter:

(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 local office or the department;

(B) the court having jurisdiction in the adoption case has determined under an 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) 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.

(5) Any other suitable relative or person who the department knows has had a significant or caretaking relationship to the child.

(6) Any other party to the child in need of services proceeding.

(d) At least ten (10) days before a hearing on a petition or motion under this chapter, the department shall provide notice of the hearing to the child's foster parent by:

(1) certified mail; or

(2) face to face contact by the department caseworker.

(e) The court shall provide to a person described in subsection (c) or (d) an opportunity to be heard and make recommendations to the court at the hearing. The right to be heard and to make recommendations under this subsection includes the right of a person described in subsection (c) or (d) 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 subsections (c) and (d), may be made a part of the court record.

(f) The court shall continue the hearing if, at the time of the hearing, the department has not provided the court with signed verification from the foster parent, as obtained through subsection (d), that the foster parent has been notified of the hearing at least five (5) business days before the hearing. However, the court is not required to continue the hearing if the child's foster parent appears for the hearing.

(g) A person described in subsection (c)(2) through (c)(5) or subsection (d) does not become a party to a proceeding under this chapter as the result of the person's right to notice and the opportunity to be heard under this section.

(h) If the parent of an abandoned child does not disclose the parent's name as allowed by IC 31-34-2.5-1(c) or indicates that the child is being abandoned under IC 31-34-2.5, the parent is not

required to be notified of a hearing described in subsection (c).
As added by P.L.35-1998, SEC.22. Amended by P.L.200-1999, SEC.31; P.L.133-2000, SEC.9; P.L.217-2001, SEC.12; P.L.145-2006, SEC.328; P.L.162-2011, SEC.53; P.L.128-2012, SEC.172.

IC 31-35-2-7
Guardian ad litem or court appointed special advocate

Sec. 7. (a) If a parent objects to the termination of the parent-child relationship, the court shall appoint:

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

for the child.

(b) If a guardian ad litem or court appointed special advocate has been appointed for the child under IC 31-34-10, the court may reappoint the guardian ad litem or court appointed special advocate to represent and protect the best interests of the child in the termination proceedings.
As added by P.L.1-1997, SEC.18.

IC 31-35-2-8
Determination

Sec. 8. (a) Except as provided in section 4.5(d) of this chapter, if the court finds that the allegations in a petition described in section 4 of this chapter are true, the court shall terminate the parent-child relationship.

(b) If the court does not find that the allegations in the petition are true, the court shall dismiss the petition.

(c) The court shall enter findings of fact that support the entry of the conclusions required by subsections (a) and (b).
As added by P.L.1-1997, SEC.18. Amended by P.L.35-1998, SEC.23; P.L.128-2012, SEC.173.

IC 31-35-3

Chapter 3. Termination of Parent-Child Relationship With Individual Convicted of Criminal Offense

IC 31-35-3-1

Application of chapter

Sec. 1. This chapter applies to the termination of the parent-child relationship between an individual convicted of an offense listed in section 4(1) of this chapter and a child described in section 4(2) of this chapter.

As added by P.L.1-1997, SEC.18.

IC 31-35-3-2

Law governing proceedings

Sec. 2. Proceedings under this chapter are governed by the procedures prescribed by:

(1) IC 31-32-1, IC 31-32-4 through IC 31-32-10, and IC 31-32-12 through IC 31-32-15;

(2) IC 31-34; and

(3) IC 31-37;

but are distinct from proceedings under IC 31-34 and IC 31-37.

As added by P.L.1-1997, SEC.18.

IC 31-35-3-3

Jurisdiction

Sec. 3. The probate court has concurrent original jurisdiction with the juvenile court in proceedings on a petition to terminate the parent-child relationship under this chapter.

As added by P.L.1-1997, SEC.18.

IC 31-35-3-4

Petition; conviction of certain offenses

Sec. 4. If:

(1) an individual is convicted of the offense of:

(A) murder (IC 35-42-1-1);

(B) causing suicide (IC 35-42-1-2);

(C) voluntary manslaughter (IC 35-42-1-3);

(D) involuntary manslaughter (IC 35-42-1-4);

(E) rape (IC 35-42-4-1);

(F) criminal deviate conduct (IC 35-42-4-2) (repealed);

(G) child molesting (IC 35-42-4-3);

(H) child exploitation (IC 35-42-4-4);

(I) sexual misconduct with a minor (IC 35-42-4-9); or

(J) incest (IC 35-46-1-3); and

(2) the victim of the offense:

(A) was less than sixteen (16) years of age at the time of the offense; and

(B) is:

(i) the individual's biological or adoptive child; or

(ii) the child of a spouse of the individual who has

committed the offense;

the attorney for the department, the child's guardian ad litem, or the court appointed special advocate may file a petition with the juvenile or probate court to terminate the parent-child relationship of the individual who has committed the offense with the victim of the offense, the victim's siblings, or any biological or adoptive child of that individual.

As added by P.L.1-1997, SEC.18. Amended by P.L.145-2006, SEC.329; P.L.146-2008, SEC.618; P.L.158-2013, SEC.325; P.L.214-2013, SEC.27.

IC 31-35-3-5

Petition; verification and contents

Sec. 5. The verified petition filed under section 4 of this chapter must:

(1) be entitled "In the Matter of the Termination of the Parent-Child Relationship of _____, a child, and _____, the parent (or parents)"; and

(2) allege:

(A) that the victim of an offense listed in section 4(1) of this chapter is:

(i) the subject of the petition;

(ii) the biological or adoptive sibling of the subject of the petition; or

(iii) the child of a spouse of the individual whose parent-child relationship is sought to be terminated under this article;

(B) that the individual whose parent-child relationship is sought to be terminated under this article was convicted;

(C) that the child has been removed:

(i) from the parent under a dispositional decree; and

(ii) from the parent's custody for at least six (6) months under a court order;

(D) that one (1) of the following is true:

(i) There is a reasonable probability that the conditions that resulted in the child's removal or the reasons for placement outside the parent's home will not be remedied.

(ii) There is a reasonable probability that continuation of the parent-child relationship poses a threat to the well-being of the child.

(iii) The child has, on two (2) separate occasions, been adjudicated a child in need of services;

(E) that termination is in the best interests of the child; and

(F) that there is a satisfactory plan for the care and treatment of the child.

As added by P.L.1-1997, SEC.18. Amended by P.L.21-2010, SEC.9.

IC 31-35-3-6

Representation of state's interests

Sec. 6. (a) The attorney for the department shall represent the

interests of the state in all subsequent proceedings on the petition.

(b) Upon the filing of a petition under section 4 of this chapter, the attorney for the department shall represent the interests of the state in all subsequent proceedings.

As added by P.L.1-1997, SEC.18. Amended by P.L.145-2006, SEC.330; P.L.146-2008, SEC.619.

IC 31-35-3-7

Request for hearing; commencement of hearing; dismissal of petition

Sec. 7. (a) The person filing the petition shall request that the court set the petition for a hearing.

(b) Whenever a hearing on the petition is requested under this chapter, the court shall commence the hearing not more than ninety (90) days after a petition is filed under this chapter.

(c) If a hearing is not held within the time set forth in subsection (b), upon filing a motion with the court by a party, the court shall dismiss the petition without prejudice.

As added by P.L.1-1997, SEC.18. Amended by P.L.35-1998, SEC.24; P.L.48-2012, SEC.69.

IC 31-35-3-8

Conviction as prima facie evidence

Sec. 8. A showing that an individual has been convicted of an offense described in section 4(1) of this chapter is prima facie evidence that there is a reasonable probability that:

(1) the conditions that resulted in the removal of the child from the parent under a court order will not be remedied; or

(2) continuation of the parent-child relationship poses a threat to the well-being of the child.

As added by P.L.1-1997, SEC.18.

IC 31-35-3-9

Determination

Sec. 9. (a) If the court finds that the allegations in a petition described in section 4 of this chapter are true, the court shall terminate the parent-child relationship.

(b) If the court does not find that the allegations in the petition are true, the court shall dismiss the petition.

As added by P.L.1-1997, SEC.18.

IC 31-35-4

Chapter 4. Child Videotape Testimony

IC 31-35-4-1

Application of chapter

Sec. 1. This chapter applies to an action initiated to terminate a parent-child relationship under:

(1) IC 31-35-2; or

(2) IC 31-35-3.

As added by P.L.1-1997, SEC.18.

IC 31-35-4-2

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 parent-child relationship should be terminated; 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.18.

IC 31-35-4-3

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 the parent-child relationship should be terminated 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 parent-child relationship should be terminated;

(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.18.

IC 31-35-4-4

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.18. Amended by P.L.145-2006, SEC.331; P.L.146-2008, SEC.620.

IC 31-35-5

Chapter 5. Child Testimony by Closed Circuit Television

IC 31-35-5-1

Application of chapter

Sec. 1. This chapter applies to an action to determine whether to terminate a parent-child relationship under:

(1) IC 31-35-2; or

(2) IC 31-35-3.

As added by P.L.1-1997, SEC.18.

IC 31-35-5-2

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.18. Amended by P.L.145-2006, SEC.332; P.L.146-2008, SEC.621.

IC 31-35-5-3

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 the parent-child relationship should be terminated.

As added by P.L.1-1997, SEC.18. Amended by P.L.145-2006, SEC.333; P.L.146-2008, SEC.622.

IC 31-35-5-4

Children who may testify outside courtroom; 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 prosecuting attorney or 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 prosecuting attorney or 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 prosecuting attorney or 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.18. Amended by P.L.145-2006, SEC.334; P.L.162-2011, SEC.54.

IC 31-35-5-5

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.18.

IC 31-35-5-6

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 prosecuting attorney or 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.18. Amended by P.L.145-2006, SEC.335.

IC 31-35-5-7

Persons who may question child testifying by closed circuit television or videotape

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 prosecuting attorney or the attorney for the department.

(2) The attorneys for the parties.

(3) The judge.

As added by P.L.1-1997, SEC.18. Amended by P.L.145-2006, SEC.336.

IC 31-35-6

Chapter 6. Effect of Termination of the Parent-Child Relationship

IC 31-35-6-1

Disposition upon termination of parent-child relationship; review

Sec. 1. (a) If the juvenile or probate court terminates the parent-child relationship, the court may:

(1) refer the matter to the court having probate jurisdiction for adoption proceedings; or

(2) order any dispositional alternative specified by IC 31-34-20-1 or IC 31-37-19-1.

(b) If the juvenile court refers the matter to the court having probate jurisdiction under subsection (a)(1), the juvenile court shall review the child's case once every six (6) months until a petition for adoption is filed.

As added by P.L.1-1997, SEC.18. Amended by P.L.35-1998, SEC.25.

IC 31-35-6-2

Referral for adoption; duties of guardian ad litem or court appointed special advocate

Sec. 2. If the juvenile or probate court terminates the parent-child relationship and refers the matter to the court having probate jurisdiction for adoption proceedings, the guardian ad litem or court appointed special advocate shall do the following:

(1) Provide the county department with information regarding the best interests of the child.

(2) Review the adoption plan as prepared by the county department as to the best interests of the child.

(3) Report to the court with juvenile jurisdiction and, if requested, to the court having probate jurisdiction, regarding the plan and the plan's appropriateness in relationship to the best interests of the child.

As added by P.L.1-1997, SEC.18.

IC 31-35-6-3

Referral for adoption; effect of appeal of decision terminating parent-child relationship

Sec. 3. An appeal of a court's decision regarding the termination of the parent-child relationship does not prevent the court in the court's discretion from referring the matter for adoption proceedings while the appeal is pending.

As added by P.L.1-1997, SEC.18.

IC 31-35-6-4

Rights, privileges, and obligations of parent and child upon termination of relationship

Sec. 4. (a) If the juvenile or probate court terminates the parent-child relationship:

(1) all rights, powers, privileges, immunities, duties, and

obligations, including any rights to custody, control, parenting time, or support, pertaining to the relationship, are permanently terminated; and

(2) the parent's consent to the child's adoption is not required.

(b) Any support obligations that accrued before the termination are not affected. However, the support payments shall be made under the juvenile or probate court's order.

As added by P.L.1-1997, SEC.18. Amended by P.L.68-2005, SEC.57.

IC 31-36

ARTICLE 36. JUVENILE LAW: MISSING CHILDREN

IC 31-36-1

Chapter 1. Reports of Missing Children

IC 31-36-1-1

Contents of reports

Sec. 1. A law enforcement agency in which a notification about a missing child has been made shall prepare a report on the missing child. That report must include the following:

(1) Information that the law enforcement agency determines is relevant that is obtained in the course of the notification about the missing child, including the following:

(A) A physical description of the child.

(B) The date and place of the child's birth.

(C) The name and address of the last school attended by the child, if any.

(2) Information or evidence gathered by a preliminary investigation, if one was made.

(3) A statement by the law enforcement officer in charge setting forth that officer's assessment of the case based upon the evidence and information received.

As added by P.L.1-1997, SEC.19.

IC 31-36-1-2

Time for preparing report

Sec. 2. The law enforcement agency shall prepare the report required by section 1 of this chapter as soon as practicable, but not later than five (5) hours after the law enforcement agency received the notification about a missing child. However, a law enforcement agency is not required to prepare the report required by section 1 of this chapter earlier than twenty-four (24) hours after the law enforcement agency received the notification about a missing child if:

(1) the law enforcement agency received a previous, unrelated notification that the child was missing; and

(2) the law enforcement agency has reason to believe that the child is missing because the child has committed a delinquent act under IC 31-37-2-2.

As added by P.L.1-1997, SEC.19.

IC 31-36-1-3

Agencies that are to receive report

Sec. 3. Upon completion of the report required by section 1 of this chapter, the law enforcement agency shall immediately forward the contents of the report to:

(1) all law enforcement agencies that have jurisdiction of the location in which the missing child lives and all law enforcement agencies that have jurisdiction of the location in

which the missing child was last seen;

(2) all law enforcement agencies to which the person who provided notification requests the report be sent, if the law enforcement agency determines that the request is reasonable in light of the information contained in the report;

(3) all law enforcement agencies that request a copy of the report;

(4) the Indiana clearinghouse for information on missing children and missing endangered adults established by IC 10-13-5;

(5) the Indiana data and communication system (IDACS); and

(6) the National Crime Information Center's Missing Person File.

As added by P.L.1-1997, SEC.19. Amended by P.L.2-2003, SEC.77; P.L.43-2009, SEC.21.

IC 31-36-1-4

Child care centers or homes and schools that are to receive report

Sec. 4. Not later than fifteen (15) days after completion of the report required by section 1 of this chapter, the law enforcement agency shall forward the contents of the report to the last:

(1) child care center or child care home in which the child was enrolled; or

(2) school the child attended in Indiana, if any;

if the child is less than thirteen (13) years of age.

As added by P.L.1-1997, SEC.19.

IC 31-36-1-5

School record attachments of missing children; procedure upon request for records

Sec. 5. (a) Upon receiving a report under section 4 of this chapter, a school shall attach a notice to the child's school records stating that the child has been reported missing. The school shall remove the notice when the school is notified under IC 31-36-2-6 that the child has been found.

(b) If a request for the school records of a missing child is received, the school shall:

(1) obtain:

(A) the name, address, and telephone number of the person making the request; and

(B) the reason that the person is requesting the school records; and

(2) immediately notify the Indiana clearinghouse for information on missing children and missing endangered adults.

(c) The school may not issue a copy of school records without authorization from the Indiana clearinghouse for information on missing children and missing endangered adults and may not inform the person making the request that a notice that the child has been reported missing has been attached to the child's records.

As added by P.L.1-1997, SEC.19. Amended by P.L.43-2009, SEC.22.

IC 31-36-2

Chapter 2. Investigation of Reports of Missing Children

IC 31-36-2-0.5

Missing juvenile as high risk missing person

Sec. 0.5. A missing juvenile is a high risk missing person under IC 5-2-17. A law enforcement agency receiving a report of a missing juvenile shall follow the procedures in IC 5-2-17 in addition to the procedures described in this chapter.

As added by P.L.92-2007, SEC.3.

IC 31-36-2-1

Time for instituting investigation

Sec. 1. A law enforcement agency shall begin an investigation concerning the missing child not later than twenty-four (24) hours after receiving notification that the child is missing.

As added by P.L.1-1997, SEC.19.

IC 31-36-2-2

Investigatory duties of law enforcement agency

Sec. 2. A law enforcement agency involved in the investigation of a missing child shall do the following:

(1) Update the initial report filed by the agency that received notification of the missing child upon the discovery of new information concerning the investigation.

(2) Forward the updated report to the agencies and organizations listed in IC 31-36-1-3.

(3) Search the National Crime Information Center's Wanted Person File for reports of arrest warrants issued for persons who allegedly abducted or unlawfully retained children and compare these reports to the missing child's National Crime Information Center's Missing Person File.

(4) Notify all law enforcement agencies involved in the investigation, the Indiana clearinghouse for information on missing children and missing endangered adults, and the National Crime Information Center when the missing child is located.

As added by P.L.1-1997, SEC.19. Amended by P.L.43-2009, SEC.23.

IC 31-36-2-3

Dental records; examination; copies

Sec. 3. (a) If a child has:

(1) been reported missing to a law enforcement agency; and

(2) not been located within thirty (30) days after the report was made to the law enforcement agency;

the law enforcement agency conducting the investigation of the missing child may request a parent or guardian of the missing child to provide written consent for the law enforcement agency to examine a copy of the missing child's dental records.

(b) A dentist receiving a request from a law enforcement agency

with written consent provided under subsection (a) shall provide a copy of the missing child's dental records to the law enforcement agency.
As added by P.L.1-1997, SEC.19.

IC 31-36-2-4
Fingerprint records; release; destruction

Sec. 4. (a) A state or local governmental agency or a public or private organization maintaining a record of the fingerprints of a child shall release a copy of that record to a law enforcement agency if:

(1) the child is a missing child (as defined in IC 10-13-5-4);
(2) a parent or guardian of the child provides written consent for the release of the record; and
(3) the law enforcement agency requests a copy of the record.

(b) Except as provided in IC 31-39-5, a record of the fingerprints of a child taken and retained by a state or local governmental agency shall be destroyed when the child becomes eighteen (18) years of age.
As added by P.L.1-1997, SEC.19. Amended by P.L.2-2003, SEC.78.

IC 31-36-2-5
Arrest warrant issuance for persons abducting or unlawfully retaining child; reporting requirements

Sec. 5. (a) If an arrest warrant is issued for a person who has allegedly abducted or unlawfully retained a missing child, the law enforcement agency issuing the warrant shall immediately enter all identifying information regarding the person into the National Crime Information Center's Wanted Person File.

(b) Upon entering the warrant information into the National Crime Information Center's Wanted Person File, the agency shall update the report in the National Crime Information Center's Missing Person File.
As added by P.L.1-1997, SEC.19.

IC 31-36-2-6
Notification upon finding missing child

Sec. 6. When a law enforcement agency is notified that a child for whom that agency prepared a report under IC 31-36-1-1 has been found, that agency shall promptly notify the persons described in IC 31-36-1-3 and IC 31-36-1-4.
As added by P.L.1-1997, SEC.19.

IC 31-36-3
Chapter 3. Homeless Children

IC 31-36-3-1
"Services or items"

Sec. 1. As used in this chapter, "services or items" includes food, clothing, personal hygiene products, health care, and counseling.
As added by P.L.133-2008, SEC.11.

IC 31-36-3-2
Shelter or services and items provided to children

Sec. 2. An emergency shelter, a shelter care facility, or a program that provides services or items that are directly related to providing shelter to individuals who:

(1) are homeless; or
(2) have a low income;

may provide shelter and services or items that are directly related to providing shelter to a child without the notification, consent, or permission of the child's parent, guardian, or custodian.
As added by P.L.133-2008, SEC.11. Amended by P.L.72-2009, SEC.1.

IC 31-36-3-3
Notification to department; investigation of a child; notification to parents

Sec. 3. (a) Except as provided in subsection (d), if a child voluntarily enters an emergency shelter or a shelter care facility, the shelter or facility shall notify the department, not later than twenty-four (24) hours after the child enters the shelter or facility, of the following:

(1) The name of the child.
(2) The location of the shelter or facility.
(3) Whether the child alleges that the child is the subject of abuse or neglect.

(b) The department shall conduct an investigation concerning the child not later than forty-eight (48) hours after receiving notification from the emergency shelter or shelter care facility under subsection (a).

(c) The department shall notify the child's parent, guardian, or custodian that the child is in an emergency shelter or a shelter care facility not later than seventy-two (72) hours after the child enters the shelter or facility. However, if the department has reason to believe that the child is a victim of child abuse or neglect, the department may not notify the child's parent, guardian, or custodian as to the specific shelter or facility the child has entered.

(d) An emergency shelter or a shelter care facility is not required to notify the department of a child who is an emancipated minor.
As added by P.L.133-2008, SEC.11.

IC 31-37

ARTICLE 37. JUVENILE LAW: DELINQUENCY

IC 31-37-1

Chapter 1. Delinquent Children Who Commit Acts That Would Be Offenses if Committed by Adults

IC 31-37-1-1

Delinquent child defined

Sec. 1. A child is a delinquent child if, before becoming eighteen (18) years of age, the child commits a delinquent act described in this chapter.

As added by P.L.1-1997, SEC.20.

IC 31-37-1-2

Delinquent act

Sec. 2. A child commits a delinquent act if, before becoming eighteen (18) years of age, the child commits an act that would be an offense if committed by an adult, except an act committed by a person over which the juvenile court lacks jurisdiction under IC 31-30-1.

As added by P.L.1-1997, SEC.20.

IC 31-37-2

Chapter 2. Delinquent Children Who Commit Certain Other Acts and Who Need Care, Treatment, or Rehabilitation

IC 31-37-2-1

Delinquent child defined

Sec. 1. A child is a delinquent child if, before becoming eighteen (18) years of age, the child:

(1) commits a delinquent act described in this chapter; and

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

(A) the child is not receiving;

(B) the child is unlikely to accept voluntarily; and

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

As added by P.L.1-1997, SEC.20.

IC 31-37-2-2

Delinquent act; leaving home without permission of parent, guardian, or custodian

Sec. 2. A child commits a delinquent act if, before becoming eighteen (18) years of age, the child leaves home:

(1) without reasonable cause; and

(2) without permission of the parent, guardian, or custodian, who requests the child's return.

As added by P.L.1-1997, SEC.20.

IC 31-37-2-3

Delinquent act; violation of compulsory school attendance law

Sec. 3. A child commits a delinquent act if, before becoming eighteen (18) years of age, the child violates IC 20-33-2 concerning compulsory school attendance.

As added by P.L.1-1997, SEC.20. Amended by P.L.1-2005, SEC.209.

IC 31-37-2-4

Delinquent act; habitual disobedience of parent, guardian, or custodian

Sec. 4. A child commits a delinquent act if, before becoming eighteen (18) years of age, the child habitually disobeys the reasonable and lawful commands of the child's parent, guardian, or custodian.

As added by P.L.1-1997, SEC.20.

IC 31-37-2-5

Delinquent act; curfew violation

Sec. 5. A child commits a delinquent act if, before becoming eighteen (18) years of age, the child commits a curfew violation under IC 31-37-3.

As added by P.L.1-1997, SEC.20.

IC 31-37-2-6

Delinquent act; violation concerning minors and alcoholic beverages

Sec. 6. A child commits a delinquent act if, before becoming eighteen (18) years of age, the child violates IC 7.1-5-7 concerning minors and alcoholic beverages.

As added by P.L.1-1997, SEC.20.

IC 31-37-2-7

Delinquent act; fireworks violation

Sec. 7. A child commits a delinquent act if, before becoming eighteen (18) years of age, the child violates IC 22-11-14-6(c) concerning minors and fireworks.

As added by P.L.187-2006, SEC.16.

IC 31-37-3
Chapter 3. Curfew Violations

IC 31-37-3-1
Repealed
(Repealed by P.L.79-2001, SEC.4.)

IC 31-37-3-2
Children 15 through 17 years of age; requirements for detention or custody
Sec. 2. (a) It is a curfew violation for a child fifteen (15), sixteen (16), or seventeen (17) years of age to be in a public place:
(1) between 1 a.m. and 5 a.m. on Saturday or Sunday;
(2) after 11 p.m. on Sunday, Monday, Tuesday, Wednesday, or Thursday; or
(3) before 5 a.m. on Monday, Tuesday, Wednesday, Thursday, or Friday.
(b) A law enforcement officer may not detain a child or take a child into custody based on a violation of this section unless the law enforcement officer, after making a reasonable determination and considering the facts and surrounding circumstances, reasonably believes that:
(1) the child has violated this section; and
(2) there is no legal defense to the violation.
As added by P.L.1-1997, SEC.20. Amended by P.L.87-2004, SEC.1.

IC 31-37-3-3
Children less than 15 years of age; requirements for detention or custody
Sec. 3. (a) It is a curfew violation for a child less than fifteen (15) years of age to be in a public place after 11 p.m. or before 5 a.m. on any day.
(b) A law enforcement officer may not detain a child or take a child into custody based on a violation of this section unless the law enforcement officer, after making a reasonable determination and considering the facts and surrounding circumstances, reasonably believes that:
(1) the child has violated this section; and
(2) there is no legal defense to the violation.
As added by P.L.1-1997, SEC.20. Amended by P.L.87-2004, SEC.2.

IC 31-37-3-3.5
Defenses
Sec. 3.5. (a) It is a defense to a violation under this chapter that the child was emancipated:
(1) under IC 31-37-19-27 or IC 31-6-4-15.7 (before its repeal);
(2) by virtue of having married; or
(3) in accordance with the laws of another state or jurisdiction;
at the time that the child engaged in the prohibited conduct.
(b) It is a defense to a violation under this chapter that the child

engaged in the prohibited conduct while:

(1) accompanied by the child's parent, guardian, or custodian;

(2) accompanied by an adult specified by the child's parent, guardian, or custodian;

(3) participating in, going to, or returning from:

(A) lawful employment;

(B) a school sanctioned activity;

(C) a religious event;

(D) an emergency involving the protection of a person or property from an imminent threat of serious bodily injury or substantial damage;

(E) an activity involving the exercise of the child's rights protected under the First Amendment to the United States Constitution or Article 1, Section 31 of the Constitution of the State of Indiana, or both, such as freedom of speech and the right of assembly; or

(F) an activity conducted by a nonprofit or governmental entity that provides recreation, education, training, or other care under the supervision of one (1) or more adults;

(4) participating in an activity undertaken at the prior written direction of the child's parent, guardian, or custodian; or

(5) engaged in interstate or international travel from a location outside Indiana to another location outside Indiana.

As added by P.L.79-2001, SEC.2. Amended by P.L.82-2006, SEC.1.

IC 31-37-3-4

Advancement of curfew time by local ordinance

Sec. 4. Whenever a city, town, or county determines that any curfew time established by section 2 or 3 of this chapter is later than is reasonable for public safety under the conditions found to exist in the city, town, or county, the city, town, or county may, by ordinance, advance the curfew time within the jurisdiction of the city, town, or county by not more than two (2) hours.

As added by P.L.1-1997, SEC.20.

IC 31-37-3-5

Cemeteries and other facilities to memorialize dead

Sec. 5. A city, town, or county may:

(1) determine that a curfew time is necessary for the peace, order, and safety of a cemetery or other facility used to memorialize the dead; and

(2) by ordinance impose upon cemeteries or other facilities to memorialize the dead within the jurisdiction of the city, town, or county legislative body a curfew time that is earlier than the curfew times established by sections 2 and 3 of this chapter by not more than four (4) hours.

As added by P.L.1-1997, SEC.20.

IC 31-37-4

Chapter 4. Taking a Child Into Custody

IC 31-37-4-1

Taking custody under court order

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.20.

IC 31-37-4-2

Taking custody without court order

Sec. 2. A child may be taken into custody by a law enforcement officer acting with probable cause to believe that the child has committed a delinquent act.

As added by P.L.1-1997, SEC.20.

IC 31-37-4-3

Law enforcement notification to schools of student arrests

Sec. 3. (a) This section applies if a child is arrested or taken into custody for allegedly committing an act that would be any of the following crimes if committed by an adult:

(1) Murder (IC 35-42-1-1).
(2) Attempted murder (IC 35-41-5-1).
(3) Voluntary manslaughter (IC 35-42-1-3).
(4) Involuntary manslaughter (IC 35-42-1-4).
(5) Reckless homicide (IC 35-42-1-5).
(6) Aggravated battery (IC 35-42-2-1.5).
(7) Battery (IC 35-42-2-1).
(8) Kidnapping (IC 35-42-3-2).
(9) A sex crime listed in IC 35-42-4-1 through IC 35-42-4-8.
(10) Sexual misconduct with a minor (IC 35-42-4-9).
(11) Incest (IC 35-46-1-3).
(12) Robbery as a Level 2 felony or a Level 3 felony (IC 35-42-5-1).
(13) Burglary as a Level 1 felony, Level 2 felony, Level 3 felony, or Level 4 felony (IC 35-43-2-1).
(14) Assisting a criminal as a Level 5 felony (IC 35-44.1-2-5).
(15) Escape (IC 35-44.1-3-4) as a Level 4 felony or Level 5 felony.
(16) Trafficking with an inmate as a Level 5 felony (IC 35-44.1-3-5).
(17) Causing death when operating a vehicle (IC 9-30-5-5).
(18) Criminal confinement (IC 35-42-3-3) as a Level 2 or Level 3 felony.
(19) Arson (IC 35-43-1-1) as a Level 2 felony, Level 3 felony, or Level 4 felony.
(20) Possession, use, or manufacture of a weapon of mass destruction (IC 35-47-12-1).
(21) Terroristic mischief (IC 35-47-12-3) as a Level 2 or Level 3 felony.

(22) Hijacking or disrupting an aircraft (IC 35-47-6-1.6).
(23) A violation of IC 35-47.5 (controlled explosives) as a Level 2 felony, Level 3 felony, or Level 4 felony.
(24) A controlled substances offense under IC 35-48.
(25) A criminal gang offense under IC 35-45-9.

(b) If a child is taken into custody under this chapter for a crime or act listed in subsection (a) or a situation to which IC 12-26-4-1 applies, the law enforcement agency that employs the law enforcement officer who takes the child into custody shall notify the chief administrative officer of the primary or secondary school, including a public or nonpublic school, in which the child is enrolled or, if the child is enrolled in a public school, the superintendent of the school district in which the child is enrolled:
(1) that the child was taken into custody; and
(2) of the reason why the child was taken into custody.

(c) The notification under subsection (b) must occur within forty-eight (48) hours after the child is taken into custody.

(d) A law enforcement agency may not disclose information that is confidential under state or federal law to a school or school district under this section.

(e) A law enforcement agency shall include in its training for law enforcement officers training concerning the notification requirements under subsection (b).

As added by P.L.67-2007, SEC.2. Amended by P.L.3-2008, SEC.240; P.L.125-2012, SEC.404; P.L.126-2012, SEC.42; P.L.172-2013, SEC.8; P.L.158-2013, SEC.326; P.L.168-2014, SEC.44.

IC 31-37-4-4

Access for inspections and monitoring of facilities that house or hold juveniles

Sec. 4. Any facility that is used or has been used to house or hold juveniles shall give a representative or designee of the Indiana criminal justice institute's compliance monitoring program reasonable access to inspect and monitor the facility to ensure that the requirements of the Juvenile Justice and Delinquency Prevention Act are maintained.

As added by P.L.67-2008, SEC.4.

IC 31-37-5

Chapter 5. Child Taken Into Custody

IC 31-37-5-1

Application of chapter

Sec. 1. This chapter applies only to a child alleged to be a delinquent child.

As added by P.L.1-1997, SEC.20.

IC 31-37-5-2

Taking child to designated place pending detention hearing

Sec. 2. 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.20.

IC 31-37-5-3

Release or detention of child taken into custody without court order

Sec. 3. (a) If a child is not taken into custody under an order of the court, the law enforcement officer may release the child or may 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. Subject to subsection (c), the law enforcement officer may place the child in detention if the law enforcement officer reasonably believes that:

(1) the child is unlikely to appear before the juvenile court for subsequent proceedings;

(2) the child has committed an act that would be murder or a Level 1 felony, Level 2 felony, Level 3 felony, or Level 4 felony if committed by an adult;

(3) detention is essential to protect the child or the community;

(4) the parent, guardian, or custodian:

(A) cannot be located; or

(B) is unable or unwilling to take custody of the child; or

(5) the child has a reasonable basis for requesting that the child not be released.

(b) If a child is detained for a reason specified in subsection (a)(4) or (a)(5), the child shall be detained under IC 31-37-7-1.

(c) Unless a law enforcement officer determines that detention is essential to protect a child or the community, the law enforcement officer who detains a child for a violation of the curfew law under IC 31-37-3 shall make a good faith effort to release the child to the child's parent, guardian, or custodian within a reasonable time after the child is detained.

As added by P.L.1-1997, SEC.20. Amended by P.L.79-2001, SEC.3; P.L.158-2013, SEC.327.

IC 31-37-5-4

Detention at designated place; notice

Sec. 4. If the child is not released, the child shall be delivered to a place designated by the court. The law enforcement officer shall immediately notify the child's parent, guardian, or custodian and an intake officer of the following:

(1) Where the child is being held.

(2) The reasons for the child's detention.

As added by P.L.1-1997, SEC.20.

IC 31-37-5-5

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

Sec. 5. (a) If the child was not taken into custody under an order of the court, an 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 delinquent child and that:

(1) the child is unlikely to appear before the juvenile court for subsequent proceedings;

(2) the child has committed an act that would be murder or a Level 1 felony, Level 2 felony, Level 3 felony, or Level 4 felony if committed by an adult;

(3) detention is essential to protect the child or the community;

(4) the parent, guardian, or custodian:

(A) cannot be located; or

(B) is unable or unwilling to take custody of the child; or

(5) the child has a reasonable basis for requesting that the child not be released.

(b) If a child is detained for a reason specified in subsection (a)(4) or (a)(5), the child shall be detained under IC 31-37-7-1.

As added by P.L.1-1997, SEC.20. Amended by P.L.158-2013, SEC.328.

IC 31-37-5-6

Detention hearing

Sec. 6. If a child taken into custody is not released, a detention hearing must be held in accordance with IC 31-37-6-2.

As added by P.L.1-1997, SEC.20.

IC 31-37-5-7 Version a

Suspension of child's driving privileges; reinstatement; probationary privileges; removal from record

Note: This version of section effective until 1-1-2015. See also following version of this section, effective 1-1-2015.

Sec. 7. (a) If a child is alleged to have committed an act that would be an offense under IC 9-30-5 if committed by an adult, a juvenile court shall recommend the immediate suspension of the child's driving privileges as provided in IC 9-30-5. If a court recommends

suspension of a child's driving privileges under this section, the bureau of motor vehicles shall comply with the recommendation of suspension as provided in IC 9-30-6-12.

(b) If a court recommends suspension of a child's driving privileges under this section, the court may order the bureau of motor vehicles to reinstate the child's driving privileges as provided in IC 9-30-6-11.

(c) If a juvenile court orders the bureau of motor vehicles to reinstate a child's driving privileges under subsection (b), the bureau shall comply with the order. Unless the order for reinstatement is issued as provided under IC 9-30-6-11(a)(2) because of a violation of the speedy trial provisions applicable to the juvenile court, the bureau shall also do the following:

(1) Remove any record of the suspension from the bureau's record keeping system.

(2) Reinstate the privileges without cost to the person.

(d) If a juvenile court orders a suspension under this section and the child did not refuse to submit to a chemical test offered under IC 9-30-6-2 during the investigation of the delinquent act that would have been an offense under IC 9-30-5 if committed by an adult, the juvenile court may grant the child probationary driving privileges for one hundred eighty (180) days in conformity with the procedures in IC 9-30-5-12. The standards and procedures in IC 9-30-5-11 and IC 9-30-5-13 apply to an action under this subsection.

(e) If a proceeding described in this section is terminated in favor of the child and the child did not refuse to submit to a chemical test offered as provided under IC 9-30-6-2 during the investigation of the delinquent act that would be an offense under IC 9-30-5 if committed by an adult, the bureau shall remove any record of the suspension, including the reasons for the suspension, from the child's official driving record.

(f) The bureau of motor vehicles may adopt rules under IC 4-22-2 to carry out this section.

As added by P.L.32-2000, SEC.20.

IC 31-37-5-7 Version b

Suspension of child's driving privileges; reinstatement; probationary privileges; removal from record

Note: This version of section effective 1-1-2015. See also preceding version of this section, effective until 1-1-2015.

Sec. 7. (a) If a child is alleged to have committed an act that would be an offense under IC 9-30-5 if committed by an adult, a juvenile court shall recommend the immediate suspension of the child's driving privileges as provided in IC 9-30-5. If a court recommends suspension of a child's driving privileges under this section, the bureau of motor vehicles shall comply with the recommendation of suspension as provided in IC 9-30-6-12.

(b) If a court recommends suspension of a child's driving privileges under this section, the court may order the bureau of motor vehicles to reinstate the child's driving privileges as provided in

IC 9-30-6-11.

(c) If a juvenile court orders the bureau of motor vehicles to reinstate a child's driving privileges under subsection (b), the bureau shall comply with the order. Unless the order for reinstatement is issued as provided under IC 9-30-6-11(a)(2) because of a violation of the speedy trial provisions applicable to the juvenile court, the bureau shall also do the following:

(1) Remove any record of the suspension from the bureau's record keeping system.

(2) Reinstate the privileges without cost to the person.

(d) If a juvenile court orders a suspension under this section and the child did not refuse to submit to a chemical test offered under IC 9-30-6-2 during the investigation of the delinquent act that would have been an offense under IC 9-30-5 if committed by an adult, the juvenile court may grant the child specialized driving privileges in conformity with the procedures in IC 9-30-16.

(e) If a proceeding described in this section is terminated in favor of the child and the child did not refuse to submit to a chemical test offered as provided under IC 9-30-6-2 during the investigation of the delinquent act that would be an offense under IC 9-30-5 if committed by an adult, the bureau shall remove any record of the suspension, including the reasons for the suspension, from the child's official driving record.

(f) The bureau of motor vehicles may adopt rules under IC 4-22-2 to carry out this section.

As added by P.L.32-2000, SEC.20. Amended by P.L.217-2014, SEC.183.

IC 31-37-5-8

Juvenile court submission of proposed service, program, or placement to department; approval or disapproval by department; emergencies; entry of order by juvenile court; appeal by department

Sec. 8. (a) This section applies to services and programs provided to or on behalf of a child alleged to be a delinquent child at any time before:

(1) entry of a dispositional decree under IC 31-37-19; or

(2) approval of a program of informal adjustment under IC 31-37-9.

(b) Except as provided in subsection (c), before a juvenile court orders or approves a service, a program, or an out-of-home placement for a child:

(1) that is recommended by a probation officer or proposed by the juvenile court;

(2) for which the costs would be payable by the department under IC 31-40-1-2; and

(3) that has not been approved by the department;

the juvenile court shall submit the proposed service, program, or placement to the department for consideration. The department shall, not later than three (3) business days after receipt of the

recommendation or proposal, submit to the court a report stating whether the department approves or disapproves the proposed service, program, or placement.

(c) If the juvenile court makes written findings and concludes that an emergency exists requiring an immediate out-of-home placement to protect the health and welfare of the child, the juvenile court may order or authorize implementation of the placement without first complying with the procedure specified in this section. After entry of an order under this subsection, the juvenile court shall submit a copy of the order to the department for consideration under this section of possible modification or alternatives to the placement and any related services or programs included in the order.

(d) If the department approves the service, program, or placement recommended by the probation officer or juvenile court, the juvenile court may enter an appropriate order to implement the approved proposal. If the department does not approve a service, program, or placement recommended by the probation officer or proposed by the juvenile court, the department may recommend an alternative service, program, or placement for the child.

(e) 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.

(f) If the juvenile court does not accept the recommendations of the department in the report submitted under subsection (b), the court:

(1) may enter an order that:

(A) 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

(B) specifically states the reasons why the juvenile court is not accepting the recommendations of the department, including the juvenile court's findings under subsection (e); and

(2) must incorporate all documents referenced in the report submitted to the probation officer or to the court by the department into the order so that the documents are part of the record for any appeal the department may pursue under subsection (g).

(g) If the juvenile court enters its findings and order under subsections (e) and (f), 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.

(h) If the department prevails on an appeal initiated under subsection (g), 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, 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 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 department shall file a notice with the Indiana judicial center.

As added by P.L.146-2008, SEC.623. Amended by P.L.131-2009, SEC.67; P.L.48-2012, SEC.70.

IC 31-37-6

Chapter 6. Detention Hearing

IC 31-37-6-1

Application of chapter

Sec. 1. This chapter applies only to a child alleged to be a delinquent child.

As added by P.L.1-1997, SEC.20.

IC 31-37-6-2

Time for hearing

Sec. 2. If a child is not released, a detention hearing shall be held not later than forty-eight (48) hours, excluding Saturdays, Sundays, and legal holidays, after the child is taken into custody.

As added by P.L.1-1997, SEC.20.

IC 31-37-6-3

Notice; court duties

Sec. 3. (a) Notice of the time, place, and purpose of a detention hearing shall be given to:

(1) the child;

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

(3) each foster parent or other caretaker with whom the child has been placed for temporary care under IC 31-37-5.

(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.

As added by P.L.1-1997, SEC.20. Amended by P.L.138-2007, SEC.81.

IC 31-37-6-4

Release if detention hearing not timely held

Sec. 4. If a detention hearing is not held before the time specified by section 2 of this chapter, the child shall be released.

As added by P.L.1-1997, SEC.20.

IC 31-37-6-5

Notice of legal rights; appointment of counsel

Sec. 5. The juvenile court:

(1) shall inform the child and the child's parent, guardian, or custodian of the child's right to counsel and to refrain from testifying against himself or herself; and

(2) may appoint counsel under IC 31-32-4.

As added by P.L.1-1997, SEC.20.

IC 31-37-6-6

Release; conditions; findings required for detention order

Sec. 6. (a) The juvenile court shall release the child on the child's own recognizance or to the child's parent, guardian, or custodian upon the person's written promise to bring the child before the court at a time specified. However, the court may order the child detained if the court finds probable cause to believe the child is a delinquent child and that:

(1) the child is unlikely to appear for subsequent proceedings;

(2) detention is essential to protect the child or the community;

(3) the parent, guardian, or custodian:

(A) cannot be located; or

(B) is unable or unwilling to take custody of the child;

(4) return of the child to the child's home is or would be:

(A) contrary to the best interests and welfare of the child; and

(B) harmful to the safety or health of the child; or

(5) the child has a reasonable basis for requesting that the child not be released.

However, the findings under this subsection are not required if the child is ordered to be detained in the home of the child's parent, guardian, or custodian or is released subject to any condition listed in subsection (d).

(b) If a child is detained for a reason specified in subsection (a)(3), (a)(4), or (a)(5), the child shall be detained under IC 31-37-7-1.

(c) If a child is detained for a reason specified in subsection (a)(4), the court shall make written findings and conclusions that include the following:

(1) The factual basis for the finding specified in subsection (a)(4).

(2) A description of the family services available and efforts made to provide family services before removal of the child.

(3) The reasons why efforts made to provide family services did not prevent removal of the child.

(4) Whether efforts made to prevent removal of the child were reasonable.

(d) Whenever the court releases a child under this section, the court may impose conditions upon the child, including:

(1) home detention;

(2) electronic monitoring;

(3) a curfew restriction;

(4) a protective order;

(5) a no contact order;

(6) an order to comply with Indiana law; or

(7) an order placing any other reasonable conditions on the child's actions or behavior.

(e) If the juvenile court releases a child to the child's parent, guardian, or custodian under this section, the court may impose conditions on the child's parent, guardian, or custodian to ensure:

(1) the safety of the child's physical or mental health;

(2) the public's physical safety; or

(3) that any combination of subdivisions (1) and (2) is satisfied.

(f) The juvenile court shall include in any order approving or requiring detention of a child or approving temporary detention of a child taken into custody under IC 31-37-5 all findings and conclusions required under:

(1) the 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 delinquent child for assistance under Title IV-E or any other federal law.

(g) 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 delinquent child constitutes compliance with subsection (f).

As added by P.L.1-1997, SEC.20. Amended by P.L.188-1999, SEC.2; P.L.217-2001, SEC.13; P.L.1-2002, SEC.127; P.L.146-2006, SEC.55; P.L.146-2008, SEC.624.

IC 31-37-6-7

Order to appear for additional detention hearing

Sec. 7. Upon the juvenile court's own motion or upon the motion of the person representing the interests of the state, a child who has been released may be ordered to appear for an additional detention hearing.

As added by P.L.1-1997, SEC.20.

IC 31-37-6-8

Petition for additional detention hearing

Sec. 8. A child detained under section 6 or 7 of this chapter may petition the juvenile court for an additional detention hearing.

As added by P.L.1-1997, SEC.20.

IC 31-37-6-9

Release on bail

Sec. 9. A child may not be released on bail except as provided by IC 31-30-3.

As added by P.L.1-1997, SEC.20.

IC 31-37-6-10

Surrender of child's driver's license as condition of release

Sec. 10. The juvenile court may require a child to surrender the child's driver's license as a condition of release to ensure the child's appearance at subsequent proceedings.

As added by P.L.1-1997, SEC.20.

IC 31-37-7

Chapter 7. Detention of Alleged Delinquent Child

IC 31-37-7-1

Detention in certain facilities, camps, or schools prohibited

Sec. 1. A child alleged to be a delinquent child under IC 31-37-2, except as provided in section 3 of this chapter, may not be held in:

(1) a secure facility; or

(2) a shelter care facility, a forestry camp, or a training school that houses persons charged with, imprisoned for, or incarcerated for crimes.

As added by P.L.1-1997, SEC.20. Amended by P.L.146-2008, SEC.625.

IC 31-37-7-2

Detention of child committing acts that would be offenses if committed by adults

Sec. 2. A child alleged to be a delinquent child under IC 31-37-1 may be held in either of the following:

(1) A secure facility for not more than six (6) hours upon arrest for the limited purposes of:

(A) identification;

(B) processing;

(C) interrogation;

(D) transfer to a juvenile detention facility; or

(E) release to parents.

If the child is detained in a secure facility, the child shall be restricted to an area of the facility in which the child has not more than haphazard or incidental sight or sound contact with persons charged with, imprisoned for, or incarcerated for crimes.

(2) A juvenile detention facility.

As added by P.L.1-1997, SEC.20.

IC 31-37-7-3

Detention of child leaving home without permission of parent, guardian, or custodian

Sec. 3. A child alleged to be a delinquent child because of an act under IC 31-37-2-2 may be held in a juvenile detention facility for:

(1) not more than twenty-four (24) hours before; and

(2) not more than twenty-four (24) hours immediately after;

the initial court appearance, not including Saturdays, Sundays, and nonjudicial days.

As added by P.L.1-1997, SEC.20. Amended by P.L.58-2004, SEC.1.

IC 31-37-7-4

Placement in facility located outside child's county of residence

Sec. 4. A court 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.20.

IC 31-37-8

Chapter 8. Information About Delinquent Children, Investigation, and Preliminary Inquiry

IC 31-37-8-1

Receipt and forwarding of information concerning delinquent child; preliminary inquiry

Sec. 1. (a) A person may give an intake officer or a prosecuting attorney written information indicating that a child is a delinquent child.

(b) If the information is given to the intake officer, the intake officer shall immediately forward the information to the prosecuting attorney.

(c) If the prosecuting attorney has reason to believe the child has committed a delinquent act, the prosecuting attorney shall instruct the intake officer to make a preliminary inquiry to determine whether the interests of the public or of the child require further action.

As added by P.L.1-1997, SEC.20.

IC 31-37-8-2

Contents of preliminary inquiry

Sec. 2. A preliminary inquiry is an informal investigation into the facts and circumstances reported to the court. Whenever practicable, the preliminary inquiry should include the following information:

(1) The child's background.

(2) The child's current status.

(3) The child's school performance.

(4) If the child has been detained:

(A) efforts made to prevent removal of the child from the child's home, including the identification of any emergency situation that prevented reasonable efforts to avoid removal;

(B) whether it is in the best interests of the child to be removed from the home environment; and

(C) whether remaining in the home would be contrary to the health and welfare of the child.

As added by P.L.1-1997, SEC.20. Amended by P.L.146-2008, SEC.626.

IC 31-37-8-3

Notice of conduct and nature of preliminary inquiry

Sec. 3. If a parent, guardian, or custodian of a child seeks information concerning a preliminary inquiry, the person shall be notified:

(1) whether a preliminary inquiry is being made; and

(2) if so, the nature of the inquiry.

As added by P.L.1-1997, SEC.20.

IC 31-37-8-4

Advisement required for child interview

Sec. 4. If a child interview occurs, the intake officer shall advise

the child and the child's parent, guardian, or custodian of the following:

(1) The nature of the allegations against the child.

(2) That the intake officer is conducting a preliminary inquiry to assist the prosecuting attorney in determining whether a petition should be filed alleging that the child is a delinquent child.

(3) That the intake officer will recommend whether to:

(A) file a petition;

(B) informally adjust the case;

(C) refer the child to another agency; or

(D) dismiss the case.

(4) That the child has a right to remain silent.

(5) That anything the child says may be used against the child in subsequent judicial proceedings.

(6) That the child has a right to consult with an attorney before the child talks with the intake officer.

(7) That the child has a right to stop at any time and consult with an attorney.

(8) That the child has a right to stop talking with the intake officer at any time.

(9) That if the child cannot afford an attorney, the court will appoint an attorney for the child.

As added by P.L.1-1997, SEC.20.

IC 31-37-8-4.5

Privileged communication to a mental health evaluator; exceptions

Sec. 4.5. (a) This section applies only to a court ordered or voluntary mental health:

(1) screening;

(2) assessment;

(3) evaluation; or

(4) treatment;

provided by or under the direction of an evaluator, as defined in IC 31-9-2-43.8, in conjunction with proceedings under this chapter.

(b) Notwithstanding section 4(5) of this chapter and except as provided in subsection (d) and except for purposes of:

(1) a probation revocation proceeding; or

(2) a modification of a dispositional decree under IC 31-37-22;

a statement communicated to an evaluator in the evaluator's official capacity may not be admitted as evidence against the child on the issue of whether the child committed a delinquent act or a crime.

(c) This section does not affect the admissibility of evidence when a juvenile interposes the defense of insanity.

(d) This section does not affect a disclosure or reporting requirement in effect on July 1, 2007, under statute or in case law regarding a statement that:

(1) relates directly to the facts or immediate circumstances of a homicide; or

(2) reveals that the child may intend to commit a crime.

As added by P.L.120-2007, SEC.4.

IC 31-37-8-5
Provision of copies of preliminary inquiry and recommendation

Sec. 5. (a) The intake officer shall do the following:

(1) Send the prosecuting attorney a copy of the preliminary inquiry.

(2) Recommend whether to:

(A) file a petition;

(B) informally adjust the case;

(C) refer the child to another agency; or

(D) dismiss the case.

(b) The prosecuting attorney and the court may agree to alter the procedure described in subsection (a).

As added by P.L.1-1997, SEC.20. Amended by P.L.145-2006, SEC.337; P.L.146-2008, SEC.627.

IC 31-37-8-6
Decision whether to file petition

Sec. 6. The prosecuting attorney shall decide whether to file a petition.

As added by P.L.1-1997, SEC.20. Amended by P.L.146-2008, SEC.628.

IC 31-37-9

Chapter 9. Program of Informal Adjustment

IC 31-37-9-1

Implementation of program; submission of proposed program to department; comments and recommendations

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 delinquent child and the child is not removed from the child's home.

(b) If the program of informal adjustment includes services requiring payment by the department under IC 31-40-1, the intake officer shall submit a copy of the proposed program to the department before submitting it to the juvenile court for approval. Upon receipt of the proposed program, the department may submit its comments and recommendations, if any, to the intake officer and the juvenile court.

As added by P.L.1-1997, SEC.20. Amended by P.L.146-2008, SEC.629.

IC 31-37-9-2

Consent; payment for services

Sec. 2. The child and the child's parent, guardian, custodian, or attorney must consent to the program of informal adjustment. Before payment for services to the family may be paid, written consent must also be obtained from the department.

As added by P.L.1-1997, SEC.20. Amended by P.L.146-2008, SEC.630.

IC 31-37-9-3

Petition for compliance

Sec. 3. If:

(1) the child is an alleged delinquent child; and

(2) the child's parent, guardian, or custodian fails to participate in the program of informal adjustment;

the probation department or the department may file a petition for compliance.

As added by P.L.1-1997, SEC.20. Amended by P.L.145-2006, SEC.338.

IC 31-37-9-4

Notice, hearing, and order for compliance; contempt

Sec. 4. (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 ordered by the court may be found

in contempt of court.
As added by P.L.1-1997, SEC.20. Amended by P.L.146-2008, SEC.631.

IC 31-37-9-5
Repealed
(Repealed by P.L.197-1997, SEC.29.)

IC 31-37-9-6
Repealed
(Repealed by P.L.197-1997, SEC.29.)

IC 31-37-9-7
Duration of program; extension
Sec. 7. 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.20. Amended by P.L.146-2008, SEC.632.

IC 31-37-9-8
Repealed
(Repealed by P.L.197-1997, SEC.29.)

IC 31-37-9-9
Informal adjustment program fee; order for payment
Sec. 9. The juvenile court may order each child who participates in a program of informal adjustment or the child's parents to pay an informal adjustment program fee of:
(1) at least five dollars ($5); but
(2) not more than fifteen dollars ($15);
for each month that the child participates in the program instead of the court cost fees prescribed by IC 33-37-4-3.
As added by P.L.1-1997, SEC.20. Amended by P.L.98-2004, SEC.114.

IC 31-37-9-10
Informal adjustment program fee; collection and disposition
Sec. 10. (a) The probation department for the juvenile court shall do the following:
(1) Collect the informal adjustment program fee set under section 9 of this chapter; and
(2) Transfer the collected informal adjustment program fees to the county auditor not later than thirty (30) days after the fees are collected.
(b) The county auditor shall deposit the fees in the county user fee fund established by IC 33-37-8-5.
As added by P.L.1-1997, SEC.20. Amended by P.L.98-2004, SEC.115.

IC 31-37-10

Chapter 10. Filing of Petition Alleging That Child Is Delinquent Child

IC 31-37-10-1

Standing

Sec. 1. The prosecuting attorney may file a petition alleging that a child is a delinquent child.

As added by P.L.1-1997, SEC.20. Amended by P.L.146-2008, SEC.633.

IC 31-37-10-2

Approval of filing of petition

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

(1) Consider the preliminary inquiry and the evidence of probable cause.

(2) Approve the filing of a petition if there is probable cause to believe that:

(A) the child is a delinquent child; and

(B) it is in the best interests of the child or the public that the petition be filed.

As added by P.L.1-1997, SEC.20.

IC 31-37-10-3

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 Delinquent Child"; and

(3) 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 statute that the child is alleged to have violated.

(C) A concise statement of the facts upon which the allegations are based, including the date and location at which the alleged act occurred.

(D) The child's name, birth date, and 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.

As added by P.L.1-1997, SEC.20.

IC 31-37-10-4

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 to the child's prejudice.
As added by P.L.1-1997, SEC.20.

IC 31-37-10-5
Written request that child be taken into custody; finding

Sec. 5. (a) If the filing of a petition is approved by the court under section 2 of this chapter, the prosecuting attorney may request in writing that the child be taken into custody. The person must support this request with sworn testimony or affidavit.

(b) 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 31-37-6-6.
As added by P.L.1-1997, SEC.20. Amended by P.L.146-2008, SEC.634.

IC 31-37-10-6
Detention hearing

Sec. 6. If the juvenile court grants the request to have the child taken into custody, the court shall proceed in accordance with IC 31-37-6.
As added by P.L.1-1997, SEC.20.

IC 31-37-10-7
Parties

Sec. 7. The:
(1) child;
(2) child's parent, guardian, or custodian; and
(3) prosecuting attorney;
are parties to the proceedings described in the juvenile law and have all rights of parties provided under the Indiana Rules of Trial Procedure.
As added by P.L.1-1997, SEC.20.

IC 31-37-10-8
Motion to dismiss by person representing state's interests

Sec. 8. Upon motion by the person representing the interests of the state, the juvenile court shall dismiss any petition the person has filed.
As added by P.L.1-1997, SEC.20.

IC 31-37-11

Chapter 11. Time Limits for Petitions; Motions for Continuance

IC 31-37-11-1

Time for filing petition alleging delinquency of child in detention

Sec. 1. If a child is in detention, a petition alleging delinquency must be filed not later than seven (7) days, excluding Saturdays, Sundays, and legal holidays, after the child is taken into custody.

As added by P.L.1-1997, SEC.20.

IC 31-37-11-2

Time for factfinding hearing or waiver hearing

Sec. 2. (a) If:

(1) a child is in detention; and

(2) a petition has been filed;

a fact-finding hearing or a waiver hearing must be commenced not later than twenty (20) days, excluding Saturdays, Sundays, and legal holidays, after the petition is filed.

(b) If:

(1) a child is not in detention; and

(2) a petition has been filed;

the hearing must be commenced not later than sixty (60) days, excluding Saturdays, Sundays, and legal holidays, after the petition is filed.

(c) A child who is ordered detained in the home of the child's parent, guardian, or custodian or who is subject to other conditions of release under IC 31-37-6-6 may not be considered as being detained for purposes of this section.

As added by P.L.1-1997, SEC.20. Amended by P.L.188-1999, SEC.3.

IC 31-37-11-3

Waiver denied; time for factfinding hearing

Sec. 3. If waiver is denied, the factfinding hearing must be commenced not later than ten (10) days, excluding Saturdays, Sundays, and legal holidays, after the denial.

As added by P.L.1-1997, SEC.20.

IC 31-37-11-4

Waiver granted; computation of time

Sec. 4. If waiver is granted, the computation of time under Criminal Rule 4 commences on the date of the waiver order.

As added by P.L.1-1997, SEC.20.

IC 31-37-11-5

Answer to petition alleging delinquency exceeding one year in aggregate

Sec. 5. A child may not be required to answer a petition alleging that the child is a delinquent child for more than one (1) year in aggregate.

As added by P.L.1-1997, SEC.20.

IC 31-37-11-6
Effect of continuances and actions of child on computation of time

Sec. 6. Times specified in sections 2 and 3 of this chapter shall be computed excluding delays resulting from any of the following:

(1) Continuances granted on the child's motion.

(2) The actions of the child.

(3) Congestion of the court calendar if the prosecuting attorney moves for a continuance not later than three (3) days before the hearing, except that a motion may be filed less than three (3) days before the hearing if the prosecuting attorney shows that the delay was not the fault of the state.

As added by P.L.1-1997, SEC.20.

IC 31-37-11-7
Release for noncompliance with time limits

Sec. 7. If:

(1) a child is in detention; and

(2) the times in sections 1, 2, and 3 of this chapter are not followed;

the child shall be released on the child's own recognizance or to the child's parents, guardian, or custodian.

As added by P.L.1-1997, SEC.20.

IC 31-37-11-8
Prosecuting attorney's motion for continuance because of absence of witness

Sec. 8. (a) If a child moves for discharge, the prosecuting attorney may move for a continuance of the factfinding hearing or waiver hearing because of the absence of a witness if the prosecuting attorney makes an official statement:

(1) setting forth the name and address of the witness if known;

(2) indicating the probability of procuring the witness's testimony within a reasonable time;

(3) showing that the absence of the witness has not been procured by the act of the prosecuting attorney;

(4) stating the facts to which the prosecuting attorney believes the witness will testify and the prosecuting attorney's belief that the facts are true; and

(5) stating that the prosecuting attorney is unable to prove the facts specified under subdivision (4) through the use of any other witness whose testimony may be as readily procured.

(b) Upon the child's request, the court shall order that the prosecuting attorney's motion and official statement be made in writing.

As added by P.L.1-1997, SEC.20.

IC 31-37-11-9
Order for continuance; grounds; discharge for failure to timely

commence hearing

Sec. 9. (a) Upon a motion for a continuance under section 8 of this chapter, the court may continue the factfinding hearing or the waiver hearing for not more than ninety (90) days. However, the hearing may not be continued if, after the prosecuting attorney moves for the continuance as the result of:

(1) a witness's absence, the child admits that the absent witness would testify to the facts alleged in the prosecuting attorney's official statement; or

(2) the unavailability of written or documentary evidence, the child admits that the written or documentary evidence exists.

(b) If the hearing is not commenced within the ninety (90) day period required by this section, the court shall discharge the child.

As added by P.L.1-1997, SEC.20.

IC 31-37-11-10

Child causing delay; extension of time period

Sec. 10. (a) Except as provided in subsection (b), if:

(1) a continuance is granted on a child's motion; or

(2) the proceedings are delayed by a child's act;

a time period is extended by the amount of the resulting delay.

(b) If a child causes a delay during the last thirty (30) days of a time period, the state may petition the court for an additional thirty (30) day extension.

As added by P.L.1-1997, SEC.20.

IC 31-37-12

Chapter 12. Initial Hearing and Issuance of Summons

IC 31-37-12-1

Application of chapter

Sec. 1. This chapter applies only to a child alleged to be a delinquent child.

As added by P.L.1-1997, SEC.20.

IC 31-37-12-2

Initial hearing; service of copy of petition and summons; notice of initial hearing

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, or guardian ad litem.

(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) The prosecuting attorney or the probation department of the juvenile court shall provide notice of the time, place, and purpose of the initial hearing scheduled or held under this section to each foster parent or other caretaker with whom the child has been placed for temporary care under IC 31-37-5 or IC 31-37-7. The court shall:

(1) provide a:

(A) person for whom a summons is required to be issued under subsection (b); and

(B) person 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.

As added by P.L.1-1997, SEC.20. Amended by P.L.138-2007, SEC.82.

IC 31-37-12-3

Representation by counsel; waiver; appointment

Sec. 3. (a) Before complying with the other requirements of this section, the juvenile court shall first determine whether counsel has been:

(1) waived under IC 31-32-5; or

(2) previously obtained.

(b) If counsel has not been waived or previously obtained, the juvenile court shall appoint counsel under IC 31-32-4.

As added by P.L.1-1997, SEC.20.

IC 31-37-12-4

Waiver of jurisdiction

Sec. 4. The court shall next determine whether the prosecuting attorney intends to seek a waiver of jurisdiction under IC 31-30-3. If a waiver is sought, the court:

(1) may not accept an admission or a denial of the allegations from the child under section 9 of this chapter; and

(2) shall do the following:

(A) Schedule a waiver hearing.

(B) Advise the child according to section 5 of this chapter.

As added by P.L.1-1997, SEC.20.

IC 31-37-12-5

Duty to inform child and parent, guardian, or custodian regarding nature of allegations, child's legal rights, jurisdiction, and dispositional alternatives

Sec. 5. The juvenile court shall inform the child and the child's parent, guardian, or custodian, if the person is present, of the following:

(1) The nature of the allegations against the child.

(2) The child's right to the following:

(A) Be represented by counsel.

(B) Have a speedy trial.

(C) Confront witnesses against the child.

(D) Cross-examine witnesses against the child.

(E) Obtain witnesses or tangible evidence by compulsory process.

(F) Introduce evidence on the child's own behalf.

(G) Refrain from testifying against himself or herself.

(H) Have the state prove beyond a reasonable doubt that the child committed the delinquent act charged.

(3) The possibility of waiver to a court having criminal jurisdiction.

(4) The dispositional alternatives available to the juvenile court if the child is adjudicated a delinquent child.

As added by P.L.1-1997, SEC.20.

IC 31-37-12-6

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

Sec. 6. The juvenile court shall inform the parent or guardian of the estate of the following if a child is adjudicated a delinquent child:

(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 child or the parent or guardian.

(3) The parent, guardian, or custodian of the child may controvert:

(A) an allegation made at the dispositional or other hearing concerning the participation of the parent, guardian, or

custodian; or
(B) an allegation concerning the financial responsibility of the parent, guardian, or custodian for services that would be provided.
As added by P.L.1-1997, SEC.20.

IC 31-37-12-7
Child's admission or denial of allegations
Sec. 7. (a) If:
(1) the prosecuting attorney has not requested that the juvenile court waive the court's jurisdiction; or
(2) a waiver has been requested and denied;
the juvenile court shall determine whether a child admits or denies the allegations of a petition.
(b) A failure to respond constitutes a denial.
As added by P.L.1-1997, SEC.20.

IC 31-37-12-8
Procedure following admission of allegations by child
Sec. 8. If a child admits the allegations of a petition, the juvenile court shall do the following:
(1) Enter judgment accordingly.
(2) Schedule a dispositional hearing.
As added by P.L.1-1997, SEC.20.

IC 31-37-12-9
Dispositional hearing; factfinding hearing; consent
Sec. 9. (a) If a child has admitted the allegations of a petition, the juvenile court may hold the dispositional hearing immediately after the initial hearing.
(b) If a child denies the allegations, the juvenile court may hold the factfinding hearing immediately after the initial hearing.
(c) Except as provided in section 10 of this chapter:
(1) the child;
(2) the child's:
(A) counsel;
(B) guardian ad litem;
(C) parent;
(D) guardian; or
(E) custodian; and
(3) the person representing the interests of the state;
must consent to the timing of the hearing.
As added by P.L.1-1997, SEC.20.

IC 31-37-12-10
Consent by emancipated child
Sec. 10. If a child is emancipated:
(1) under IC 31-37-19-27;
(2) by virtue of having married; or
(3) in accordance with the laws of another state or jurisdiction;

it is only necessary for the child to consent to the factfinding hearing or the dispositional hearing described in section 9 of this chapter.
As added by P.L.1-1997, SEC.20.

IC 31-37-13

Chapter 13. Factfinding Hearing

IC 31-37-13-1

Hearsay requirements; notice; opportunity to be heard

Sec. 1. (a) Unless the allegations of a petition have been admitted, the juvenile court shall hold a factfinding hearing.

(b) If the factfinding hearing is not held immediately after the initial hearing as provided under IC 31-37-12-9, the prosecuting attorney or probation department of the juvenile court 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 required to be notified under this subsection an opportunity to be heard at the factfinding hearing.

As added by P.L.1-1997, SEC.20. Amended by P.L.138-2007, SEC.83.

IC 31-37-13-2

Judgment; order for predispositional report; scheduling of dispositional hearing

Sec. 2. If the court finds that a child is a delinquent child, the court shall do the following:

(1) Enter judgment accordingly.

(2) Order a predispositional report.

(3) Schedule a dispositional hearing.

As added by P.L.1-1997, SEC.20. Amended by P.L.146-2008, SEC.635.

IC 31-37-13-3

Discharge of child

Sec. 3. If the court finds that a child is not a delinquent child, the court shall discharge the child.

As added by P.L.1-1997, SEC.20.

IC 31-37-13-4

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 child or the child's parent, guardian, or custodian 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.20. Amended by P.L.35-1998, SEC.26.

IC 31-37-13-5

Findings required where delinquent act would be felony if committed by adult

Sec. 5. If a finding of delinquency is based on a delinquent act that would be a felony if committed by an adult, the juvenile court shall state in the findings the following:

(1) The specific statute that was violated.

(2) The class or level of the felony had the violation been committed by an adult.

As added by P.L.1-1997, SEC.20. Amended by P.L.168-2014, SEC.45.

IC 31-37-14
Chapter 14. Findings, Presumptions, and Evidence

IC 31-37-14-1
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.20.

IC 31-37-14-2
Burden of proof in proceedings to terminate parental rights

Sec. 2. 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.20.

IC 31-37-14-3
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.20.

IC 31-37-15

Chapter 15. Petition for Parental Participation

IC 31-37-15-1

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 the child:

(1) The prosecuting attorney.

(2) A probation officer.

(3) The department of correction.

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

As added by P.L.1-1997, SEC.20. Amended by P.L.145-2006, SEC.339; P.L.146-2008, SEC.636.

IC 31-37-15-2

Verification

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

As added by P.L.1-1997, SEC.20.

IC 31-37-15-3

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 delinquent child.

(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.20.

IC 31-37-15-4

Hearing; advisement to parent; decree

Sec. 4. (a) The court may hold a hearing on a petition concurrently with any dispositional hearing or with any 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 31-37-19-24 (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.20.

IC 31-37-16
Repealed

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

IC 31-37-17

Chapter 17. Predispositional Report

IC 31-37-17-1

Recommendation of care, treatment, or rehabilitation of child; alternative reports

Sec. 1. (a) Upon finding that a child is a delinquent child, the juvenile court shall order a probation officer to prepare a predispositional report that contains:

(1) a statement of the needs of the child for care, treatment, rehabilitation, or placement;

(2) a recommendation for the care, treatment, rehabilitation, or placement of the child;

(3) if the recommendation includes an out-of-home placement other than a secure detention facility, information that the department requires to determine whether the child is eligible for assistance under Title IV-E of the federal Social Security Act (42 U.S.C. 670 et seq.);

(4) a statement of the department's concurrence with or its alternative proposal to the probation officer's predispositional report, as provided in section 1.4 of this chapter; and

(5) a statement of whether the child receives Medicaid.

(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.20. Amended by P.L.55-1997, SEC.25; P.L.146-2008, SEC.637; P.L.114-2009, SEC.2; P.L.131-2009, SEC.68; P.L.1-2010, SEC.127.

IC 31-37-17-1.1

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 delinquent child.

(b) A conference held under this chapter 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.26. Amended by P.L.253-1997(ss), SEC.28.5; P.L.145-2006, SEC.340.

IC 31-37-17-1.2

Mandatory attendance of child's school representative at conference

Sec. 1.2. If a delinquent child is known to be eligible for special education services or placement under IC 20-35-2 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.27. Amended by P.L.1-2005, SEC.210.

IC 31-37-17-1.3

Reports and forms

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.

(c) The probation officer shall:

(1) collect and maintain all information relevant to a determination of eligibility under Title IV-E of the federal Social Security Act (42 U.S.C. 670 et seq.); and

(2) complete financial eligibility forms designated by the director to assist in obtaining federal reimbursement and other reimbursement.

As added by P.L.55-1997, SEC.28. Amended by P.L.273-1999, SEC.108; P.L.146-2008, SEC.638.

IC 31-37-17-1.4

Referral of predispositional report to department; review of predispositional report by department; concurrence or alternative proposal

Sec. 1.4. (a) If the predispositional report includes a recommended placement, program, or services that would be payable by the department under IC 31-40-1-2, a probation officer shall refer the officer's completed predispositional report, except for the statement required under section 1(a)(4) of this chapter, to the department within a reasonable time before its required disclosure under section 6 of this chapter to allow the department time to:

(1) review; and

(2) either concur with or offer an alternative proposal to the recommendations in;

the predispositional report.

(b) The department shall, after review of the predispositional report and any attachments necessary to verify the predispositional report, and within a reasonable time before the dispositional hearing, either:

(1) concur with the predispositional report; or

(2) communicate to the probation officer an alternative proposal regarding programs and services.

As added by P.L.146-2008, SEC.639.

IC 31-37-17-2

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 a probation officer believes that an out-of-home placement would be appropriate for a delinquent child, the probation officer shall consider whether the child should be placed with a suitable and willing relative, before considering other out-of-home placements for the child.

As added by P.L.1-1997, SEC.20. Amended by P.L.146-2008, SEC.640; P.L.123-2014, SEC.25.

IC 31-37-17-3

Financial report

Sec. 3. The probation officer shall collect information and prepare a financial report, in the form prescribed by the department, on the parent or the estate of the child to assist the juvenile court and the department in:

(1) determining the person's financial responsibility; and

(2) obtaining federal reimbursement;

for services provided for the child or the person.

As added by P.L.1-1997, SEC.20. Amended by P.L.273-1999, SEC.109; P.L.145-2006, SEC.341; P.L.146-2008, SEC.641.

IC 31-37-17-4

Recommendation on care, treatment, rehabilitation, or placement; risk assessment and needs assessment

Sec. 4. (a) If consistent with the safety and best interest of the child and the community, the probation officer 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.

(b) If the report recommends a placement or services for which the department will be responsible for payment under IC 31-40-1, the report must include a risk assessment and needs assessment for the child. The probation officer shall submit to the department a copy of the report and the financial report prepared by the probation officer.

(c) If the report does not include the:

(1) risk assessment and needs assessment required in subsection (b); or

(2) information required to be provided under section 1(a)(3) of this chapter;

the department shall file a notice with the Indiana judicial center.

As added by P.L.1-1997, SEC.20. Amended by P.L.55-1997, SEC.29; P.L.146-2008, SEC.642; P.L.48-2012, SEC.71.

IC 31-37-17-5

Examinations

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

(1) Authorize an 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.20.

IC 31-37-17-6

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.20. Amended by P.L.197-1997, SEC.28.

IC 31-37-17-6.1

Predispositional report; contents

Sec. 6.1. (a) The predispositional report prepared by a probation officer 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.

(4) The items required under section 1 of this chapter.

(b) If a probation officer is considering an out-of-home placement, including placement with a relative, the probation officer must 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) A probation officer is not required to conduct a criminal history check under this section if:

(1) the probation officer 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.30. Amended by P.L.70-2004, SEC.24; P.L.234-2005, SEC.186; P.L.145-2006, SEC.342; P.L.146-2008, SEC.643; P.L.123-2014, SEC.26.

IC 31-37-17-7
Victim notification

Sec. 7. (a) This section shall not be construed to limit victim's rights granted by IC 35-40 or any other law.

(b) In the case of a child who commits a delinquent act that would be a sex offense (as defined in IC 11-13-6-5.5(b)) if the child were an adult, the person preparing the predispositional report under section 1 of this chapter shall, before the predispositional report is prepared, notify each victim (as defined in IC 11-13-6-5.5) in the proceeding of the victim's rights under IC 11-13-6-5.5 and the procedures related to the exercises of those rights.

As added by P.L.77-2001, SEC.2.

IC 31-37-17-8
Exchange of information

Sec. 8. Unless prohibited by federal law, a probation department and:

(1) the division of family resources;

(2) a local office; and

(3) the department of child services;

may exchange information for use in preparing a report under this chapter.

As added by P.L.131-2009, SEC.69. Amended by P.L.128-2012, SEC.174.

IC 31-37-18

Chapter 18. Dispositional Hearing

IC 31-37-18-1

Issues for consideration

Sec. 1. The juvenile court shall hold a dispositional hearing 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.20. Amended by P.L.55-1997, SEC.31.

IC 31-37-18-1.1

Mandatory attendance at predispositional hearing by report preparer or probation officer

Sec. 1.1. (a) At a dispositional hearing under this chapter, the person that prepared the predispositional report or a probation officer described in subsection (b):

(1) must be present; and

(2) must present testimony when requested to explain how the individuals participating in the conference described in IC 31-37-17:

(A) examined the available options; and

(B) recommended the options that most closely coincide with the guidelines provided in IC 31-37-17-4.

(b) A probation officer other than the person who prepared the predispositional report may satisfy the requirements of subsection (a) if the probation officer has knowledge of:

(1) a conference held under IC 31-37-17-1.1; and

(2) the report and recommendations made under IC 31-37-17-1.

As added by P.L.55-1997, SEC.32. Amended by P.L.142-2007, SEC.9.

IC 31-37-18-1.3

Notice of dispositional hearing; court duties

Sec. 1.3. (a) The prosecuting attorney or probation department of the juvenile court 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 31-37-12-2; 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 who is 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.84.

IC 31-37-18-2

Admissibility of reports; opportunity to controvert report

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 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) A foster parent or other caretaker who is entitled to notice of the dispositional hearing under section 1.3 of this chapter.

As added by P.L.1-1997, SEC.20. Amended by P.L.138-2007, SEC.85.

IC 31-37-18-3

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.20. Amended by P.L.99-2007, SEC.197.

IC 31-37-18-4

Discharge of child; continuance of proceeding; no release of department 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 the department, the juvenile court may not release the department from the obligations of the department to the child pending the outcome of the proceeding under IC 12-26.

As added by P.L.1-1997, SEC.20. Amended by P.L.145-2006, SEC.343; P.L.146-2008, SEC.644.

IC 31-37-18-5
Release of department of child services from obligations to child placed in state institution for involuntary treatment

Sec. 5. If the court authorizes a child who is under the custody or supervision of 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 department to the child until the earlier of:

(1) the date the child is discharged; or

(2) the date that a parent, guardian, or other responsible person approved by the court assumes the obligations.

As added by P.L.1-1997, SEC.20. Amended by P.L.145-2006, SEC.344; P.L.146-2008, SEC.645.

IC 31-37-18-6
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.20. Amended by P.L.55-1997, SEC.33.

IC 31-37-18-7
Provision of copies of dispositional report

Sec. 7. 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.20.

IC 31-37-18-8
Advisement of modification procedures

Sec. 8. The juvenile court shall advise the child and the child's parent, guardian, or custodian of the procedures under IC 31-37-22.

As added by P.L.1-1997, SEC.20.

IC 31-37-18-9
Filings and conclusions; written findings concerning recommendations; appeal by department

Sec. 9. (a) The juvenile court shall accompany the court's dispositional decree with written findings and conclusions upon the

record concerning approval, modification, or rejection of the dispositional recommendations submitted in the predispositional report, including the following specific findings:

(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 removed from the child's parent, guardian, or custodian, to:

(A) prevent the child's removal from; or

(B) reunite the child with;

the child's parent, guardian, or custodian.

(4) Family services that were offered and provided to:

(A) the child; or

(B) the child's parent, guardian, or custodian.

(5) The court's reasons for the disposition.

(b) If the department does not concur with the probation officer's recommendations in the predispositional report and the juvenile court does not follow the department's alternative recommendations, the juvenile court shall:

(1) accompany the court's dispositional decree with written findings that the department's recommendations contained in the predispositional report are:

(A) unreasonable based on the facts and circumstances of the case; or

(B) contrary to the welfare and best interests of the child; and

(2) incorporate all documents referenced in the report submitted to the probation officer or to the court by the department into the order so that the documents are part of the record for any appeal the department may pursue under subsection (d).

(c) 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.

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

(e) 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 (d), other than the cost of an out-of-home placement ordered by the juvenile court; and

(2) any out-of-home placement ordered by the juvenile court and implemented after entry of the dispositional decree or modification order, if the juvenile 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 department shall file a notice with the Indiana judicial center.

As added by P.L.1-1997, SEC.20. Amended by P.L.55-1997, SEC.34; P.L.146-2006, SEC.56; P.L.146-2008, SEC.646; P.L.131-2009, SEC.70; P.L.48-2012, SEC.72.

IC 31-37-19
Chapter 19. Dispositional Decrees

IC 31-37-19-1
Entry of dispositional decrees; placement in foster family home or another facility; findings and conclusions; costs

Sec. 1. (a) Subject to section 6.5 of this chapter, if a child is a delinquent child under IC 31-37-2, the juvenile court may enter one (1) or more of the following dispositional decrees:

(1) Order supervision of the child by the probation 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 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 to a:

(A) person, other than the department; or

(B) shelter care facility.

(5) Partially or completely emancipate the child under section 27 of this chapter.

(6) Order:

(A) the child; or

(B) the child's parent, guardian, or custodian;

to receive family services.

(7) Order a person who is a party to refrain from direct or indirect contact with the child.

(b) If the child is removed from the child's home and placed in a foster family home or another facility, the juvenile court shall:

(A) approve a permanency plan for the child;

(B) find whether or not reasonable efforts were made to prevent or eliminate the need for the removal;

(C) designate responsibility for the placement and care of the child with the probation department; and

(D) find whether it:

(i) serves the best interests of the child to be removed; and

(ii) would be contrary to the health and welfare of the child for the child to remain in the home.

(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 a:

(A) person other than the department; or

(B) shelter care facility; and

(2) is the first court order in the delinquent child proceeding that authorizes or approves removal of the child from the child's parent, guardian, or custodian;

the court shall include in the decree the appropriate findings and conclusions described in IC 31-37-6-6(f) and IC 31-37-6-6(g).

(d) If the juvenile court orders supervision of the child by the probation department under subsection (a)(1), the child or the child's parent, guardian, or custodian is responsible for any costs resulting from the participation in a rehabilitative service or educational class provided by the probation department. Any costs collected for services provided by the probation department shall be deposited in the county supplemental juvenile probation services fund.

As added by P.L.1-1997, SEC.20. Amended by P.L.70-2004, SEC.25; P.L.145-2006, SEC.345; P.L.146-2006, SEC.57; P.L.146-2008, SEC.647; P.L.147-2012, SEC.5.

IC 31-37-19-1.5

Completion of case plan; copies of case plan; elements included in case plan; review and update of case plan

Sec. 1.5. (a) This section applies to a delinquent child if the child is placed in an out-of-home residence or facility that is not a secure detention facility.

(b) The probation department, after negotiating with the child's parent, guardian, or custodian, shall complete the child's case plan not later than sixty (60) days after the date of the child's first placement that the probation department requests to be paid for by the department.

(c) A copy of the completed case plan shall be sent to the department, 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.

(d) A child's case plan must be in a form prescribed by the department that meets the specifications set by 45 CFR 1356.21, as amended. The case plan must include a description and discussion of the following:

(1) A permanency 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 implemented or recommended, including consideration of possible placement with any suitable and willing relative, 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 if remaining in the same school is not in the best interests of the child.

(e) Each caretaker of a child and the probation department shall cooperate in the development of the case plan for the child. The probation department shall discuss with at least one (1) foster parent or other caretaker of a child the role of the substitute caretaker or facility 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.

(f) The case plan must be reviewed and updated by the probation department at least once every one hundred eighty (180) days.

As added by P.L.146-2008, SEC.648. Amended by P.L.131-2009, SEC.71; P.L.123-2014, SEC.27.

IC 31-37-19-2

Dispositional decree that includes a 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.20. Amended by P.L.133-2002, SEC.36.

IC 31-37-19-3

Placement in shelter care facility outside county of residence; placement in home or facility outside Indiana

Sec. 3. (a) A juvenile court may not place a child who is a delinquent child under IC 31-37-2 in a shelter care facility that is located outside the child's county of residence unless:

(1) placement of the child in a shelter care facility with adequate services located in the child's county of residence is unavailable; or

(2) the child's county of residence does not have an appropriate shelter care facility with adequate services.

(b) A juvenile court may not place a child in a home or facility

that is not a secure detention facility and 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 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 more than fifty (50) miles from the county of residence of the child.

As added by P.L.1-1997, SEC.20. Amended by P.L.146-2008, SEC.649.

IC 31-37-19-4

Invalidation of driver's license or permit of delinquent child violating compulsory school attendance law

Sec. 4. (a) This section applies if a child:

(1) is a delinquent child under IC 31-37-2 due to the commission of a delinquent act under IC 31-37-2-3 (or IC 31-6-4-1(a)(3) before its repeal); and

(2) has been previously determined to be a delinquent child under IC 31-37-2 (or IC 31-6-4-1(b)(2) before its repeal) due to the commission of a delinquent act under IC 31-37-2-3 (or IC 31-6-4-1(a)(3) before its repeal).

(b) The juvenile court shall, in addition to any other order or decree the juvenile court makes under this chapter, order the bureau of motor vehicles to invalidate the child's driver's license or permit for a period specified by the court that is not less than ninety (90) days but not more than one (1) year.

As added by P.L.1-1997, SEC.20.

IC 31-37-19-5

Additional dispositional decrees; costs

Sec. 5. (a) This section applies if a child is a delinquent child under IC 31-37-1.

(b) The juvenile court may, in addition to an order under section 6 of this chapter, enter at least one (1) of the following dispositional decrees:

(1) Order supervision of the child by the probation department as a condition of probation under this subdivision. The juvenile court shall after a determination under IC 11-8-8-5 require a child who is adjudicated a delinquent child for an act that would be an offense described in IC 11-8-8-5 if committed by an adult to register with the local law enforcement authority under IC 11-8-8.

(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) Order the child to surrender the child's driver's license to the court for a specified period of time.

(4) Order the child to pay restitution if the victim provides reasonable evidence of the victim's loss, which the child may challenge at the dispositional hearing.

(5) Partially or completely emancipate the child under section 27 of this chapter.

(6) Order the child to attend an alcohol and drug services program established under IC 12-23-14.

(7) Order the child to perform community restitution or service for a specified period of time.

(8) Order wardship of the child as provided in section 9 of this chapter.

(c) If the juvenile court orders supervision of the child by the probation department under subsection (b)(1), the child or the child's parent, guardian, or custodian is responsible for any costs resulting from the participation in a rehabilitative service or educational class provided by the probation department. Any costs collected for services or classes provided by the probation department shall be deposited in the county supplemental juvenile probation services fund.

As added by P.L.1-1997, SEC.20. Amended by P.L.32-2000, SEC.21; P.L.238-2001, SEC.16; P.L.116-2002, SEC.19; P.L.140-2006, SEC.19 and P.L.173-2006, SEC.19; P.L.145-2006, SEC.346; P.L.1-2007, SEC.208; P.L.146-2008, SEC.650; P.L.147-2012, SEC.6.

IC 31-37-19-6

Additional actions by court on behalf of delinquent child

Sec. 6. (a) This section applies if a child is a delinquent child under IC 31-37-1.

(b) Except as provided in section 10 of this chapter and subject to section 6.5 of this chapter, the juvenile court may:

(1) enter any dispositional decree specified in section 5 of this chapter; and

(2) take any of the following actions:

(A) Award wardship to:

(i) the department of correction for housing in a correctional facility for children; or

(ii) a community based correctional facility for children.

Wardship under this subdivision does not include the right to consent to the child's adoption.

(B) If the child is less than seventeen (17) years of age, order confinement in a juvenile detention facility for not more than the lesser of:

(i) ninety (90) days; or

(ii) the maximum term of imprisonment that could have been imposed on the child if the child had been convicted as an adult offender for the act that the child committed

under IC 31-37-1 (or IC 31-6-4-1(b)(1) before its repeal).

(C) If the child is at least seventeen (17) years of age, order confinement in a juvenile detention facility for not more than the lesser of:

(i) one hundred twenty (120) days; or

(ii) the maximum term of imprisonment that could have been imposed on the child if the child had been convicted as an adult offender for the act that the child committed under IC 31-37-1 (or IC 31-6-4-1(b)(1) before its repeal).

(D) Remove the child from the child's home and place the child in another home or shelter care facility. Placement under this subdivision includes authorization to control and discipline the child.

(E) Award wardship to a:

(i) person, other than the department; or

(ii) shelter care facility.

Wardship under this subdivision does not include the right to consent to the child's adoption.

(F) Place the child in a secure private facility for children licensed under the laws of a state. Placement under this subdivision includes authorization to control and discipline the child.

(G) Order a person who is a respondent in a proceeding under IC 31-37-16 (before its repeal) or IC 34-26-5 to refrain from direct or indirect contact with 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 a:

(A) person, other than the department; or

(B) shelter care facility; and

(2) is the first court order in the delinquent child 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 31-37-6-6(f) and IC 31-37-6-6(g).

As added by P.L.1-1997, SEC.20. Amended by P.L.1-2003, SEC.79; P.L.70-2004, SEC.26; P.L.146-2008, SEC.651.

IC 31-37-19-6.5

Approval of placement of child or awarding wardship that results in placement with certain individuals prohibited; criminal history check; exceptions; considerations

Sec. 6.5. (a) Except as provided in subsection (d), the juvenile court may not enter a dispositional decree approving placement of a child in another home under section 1(a)(3) or 6(b)(2)(D) of this chapter or awarding wardship to a person or facility that results in a placement with a person under section 1(a)(4) or 6(b)(2)(E) 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), 1(a)(4), 6(b)(2)(D), or 6(b)(2)(E) 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 juvenile probation officer 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 probation officer is not required to conduct a criminal history check under this section if criminal history information obtained under IC 31-37-17-6.1 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 if committed by an adult, or has a conviction for a felony listed in IC 31-27-4-13.

(c) The juvenile probation officer is not required to conduct a criminal history check under this section if:

(1) the probation officer 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) The juvenile court may enter a dispositional decree approving placement of a child in another home under section 1(a)(3) or 6(b)(2)(D) of this chapter or awarding wardship to a person or facility that results in a placement with a person under section 1(a)(4) or 6(b)(2)(E) of this chapter if:

(1) a 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) (repealed) 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 the child in another home is in the best interest of the child.

However, a court may not enter a dispositional decree placing a child in another home under section 1(a)(3) or 6(b)(2)(D) of this chapter or awarding wardship to a person or facility under this subsection if a person with whom the child is or will be placed has been convicted of a felony listed in IC 31-27-4-13 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.27. Amended by P.L.234-2005, SEC.187; P.L.145-2006, SEC.347; P.L.1-2007, SEC.209; P.L.146-2008, SEC.652; P.L.162-2011, SEC.55; P.L.158-2013, SEC.329.

IC 31-37-19-7

Age restrictions for wardship; confinement in facilities housing persons charged with, imprisoned for, or incarcerated for crimes

Sec. 7. (a) With respect to a wardship awarded under section 6(b)(2)(A) of this chapter, a child may not be awarded to the department of correction, if the child:

(1) except as provided by subsection (b), is:

(A) less than twelve (12) years of age; or

(B) at least eighteen (18) years of age;

at the time of the dispositional decree; or

(2) was determined to be a delinquent child because the child violated IC 7.1-5-7.

(b) A wardship may be awarded to the department of correction if the child:

(1) is ten (10) or eleven (11) years of age; and

(2) is found to have committed an act that would have been murder if committed by an adult.

(c) The department of correction may not confine a delinquent child, except as provided in IC 11-10-2-10, at:

(1) an adult correctional facility; or

(2) a shelter care facility;

that houses persons charged with, imprisoned for, or incarcerated for crimes unless the child is restricted to an area of the facility where the child may have not more than haphazard or incidental sight or sound contact with persons charged with, imprisoned for, or incarcerated for

crimes.
As added by P.L.1-1997, SEC.20.

IC 31-37-19-8
Continuous or intermittent confinement; substandard juvenile detention facilities

Sec. 8. (a) Confinement under section 6(b)(2)(B) of this chapter may be continuous or intermittent, including confinement at night or on weekends.

(b) A child may not be sent to a juvenile detention facility that fails to meet standards established by law.
As added by P.L.1-1997, SEC.20.

IC 31-37-19-9
Confinement of delinquent child at least 13 but less than 16 years of age committing act that would be murder, kidnapping, rape, criminal deviate conduct, or robbery if committed by adult

Sec. 9. (a) This section applies if a child is a delinquent child under IC 31-37-1.

(b) After a juvenile court makes a determination under IC 11-8-8-5, the juvenile court may, in addition to an order under section 6 of this chapter, and if the child:

(1) is at least thirteen (13) years of age and less than sixteen (16) years of age; and

(2) committed an act that, if committed by an adult, would be:

(A) murder (IC 35-42-1-1);

(B) kidnapping (IC 35-42-3-2);

(C) rape (IC 35-42-4-1);

(D) criminal deviate conduct (IC 35-42-4-2) (repealed); or

(E) robbery (IC 35-42-5-1) if the robbery was committed while armed with a deadly weapon or if the robbery resulted in bodily injury or serious bodily injury;

order wardship of the child to the department of correction for a fixed period that is not longer than the date the child becomes eighteen (18) years of age, subject to IC 11-10-2-10.

(c) Notwithstanding IC 11-10-2-5, the department of correction may not reduce the period ordered under this section (or IC 31-6-4-15.9(b)(8) before its repeal).
As added by P.L.1-1997, SEC.20. Amended by P.L.238-2001, SEC.17; P.L.140-2006, SEC.20 and P.L.173-2006, SEC.20; P.L.158-2013, SEC.330; P.L.214-2013, SEC.28.

IC 31-37-19-10
Confinement of delinquent child at least 14 years of age having two prior delinquency adjudications and who commits an act that would be a felony against a person or a Level 1 through Level 4 felony conviction for burglary or a controlled substance offense

Sec. 10. (a) This section applies to a child who:

(1) is adjudicated a delinquent child for an act that if committed by an adult would be:

(A) a felony against a person;

(B) a Level 1, Level 2, Level 3, or Level 4 felony that is a controlled substances offense under IC 35-48-4-1 through IC 35-48-4-5; or

(C) burglary as a Level 1, Level 2, Level 3, or Level 4 felony under IC 35-43-2-1;

(2) is at least fourteen (14) years of age at the time the child committed the act for which the child is being placed; and

(3) has two (2) unrelated prior adjudications of delinquency for acts that would be felonies if committed by an adult.

(b) A court may place the child in a facility authorized under this chapter for not more than two (2) years.

(c) Notwithstanding IC 11-10-2-5, the department of correction may not reduce the period ordered under this section (or IC 31-6-4-15.9(n) before its repeal).

As added by P.L.1-1997, SEC.20. Amended by P.L.158-2013, SEC.331.

IC 31-37-19-11

Confinement imposed under departmental classification system; limitation

Sec. 11. If a child:

(1) is adjudicated a delinquent child for a delinquent act; and

(2) becomes a ward of the department of correction under this chapter (or IC 31-6-4-15.9 before its repeal);

the department of correction may not at any time during the child's confinement impose a departmental classification system on the child that would cause the child to be confined in a correctional facility for longer than the period of confinement under a departmental classification system that existed on the date that the child committed the delinquent act.

As added by P.L.1-1997, SEC.20.

IC 31-37-19-12

HIV testing of delinquent child; reporting; notice to and counseling of victims

Sec. 12. (a) This section applies if a child is a delinquent child under IC 31-37-1 due to the commission of a delinquent act that, if committed by an adult, would be:

(1) an offense relating to a criminal sexual act (as defined in IC 35-31.5-2-216) and the offense created an epidemiologically demonstrated risk of transmission of the human immunodeficiency virus (HIV); or

(2) an offense relating to controlled substances (as defined in IC 35-31.5-2-217) if the offense involved:

(A) the delivery by a person to another person; or

(B) the use by a person on another person;

of a contaminated sharp (as defined in IC 16-41-16-2) or other paraphernalia that creates an epidemiologically demonstrated risk of transmission of HIV by involving percutaneous contact.

(b) The juvenile court shall, in addition to any other order or

decree the court makes under this chapter, order the child to undergo a screening test for the human immunodeficiency virus (HIV).

(c) If the screening test indicates the presence of antibodies to HIV, the court shall order the child to undergo a confirmatory test.

(d) If the confirmatory test confirms the presence of the HIV antibodies, the court shall report the results to the state department of health.

(e) The state department of health shall do the following:

(1) Notify potentially affected victims of the offense relating to a criminal sexual act (as defined in IC 35-31.5-2-216) or offense relating to controlled substances (as defined in IC 35-31.5-2-217) of the HIV screening results.

(2) Provide counseling regarding HIV and a referral for appropriate health care to the victims.

As added by P.L.1-1997, SEC.20. Amended by P.L.125-2007, SEC.2; P.L.114-2012, SEC.52.

IC 31-37-19-13

Delinquent acts involving controlled or counterfeit substances or prescription drugs; invalidation of operator's license or permit

Sec. 13. (a) This section applies if a child is a delinquent child under IC 31-37-1 due to the commission of a delinquent act that, if committed by an adult, would be:

(1) dealing in:

(A) a controlled substance (as defined in IC 35-48-1-9); or

(B) a counterfeit substance (as defined in IC 35-48-1-10);

(2) possessing:

(A) a controlled substance (as defined in IC 35-48-1-9); or

(B) a prescription drug (as defined in IC 35-48-1-25);

for which the child does not have a prescription; or

(3) conspiring to commit an act described in subdivision (1) or (2).

(b) The juvenile court shall, in addition to any other order or decree the court makes under this chapter, order the bureau of motor vehicles to invalidate the child's operator's license or permit for a period specified by the court of at least six (6) months but not more than one (1) year from the time the child would otherwise be eligible for a learner's permit.

As added by P.L.1-1997, SEC.20.

IC 31-37-19-14

Delinquent acts involving controlled or counterfeit substances or prescription drugs; prior adjudication of act on or near school property; invalidation of operator's license or permit

Sec. 14. (a) This section applies if:

(1) a child has been previously determined to be a delinquent child under IC 31-37-1 (or IC 31-6-4-1(b)(1) before its repeal) due to the commission of a delinquent act described in section 13(a)(1), 13(a)(2), or 13(a)(3) of this chapter (or IC 31-6-4-15.9(d)(1), IC 31-6-4-15.9(d)(2), or

IC 31-6-4-15.9(d)(3) before its repeal); or

(2) the delinquent act described in section 13(a)(1), 13(a)(2), or 13(a)(3) of this chapter (or IC 31-6-4-15.9(d)(1), IC 31-6-4-15.9(d)(2), or IC 31-6-4-15.9(d)(3) before its repeal) was committed:

(A) on school property;

(B) within one thousand (1,000) feet of school property; or

(C) on a school bus.

(b) The juvenile court shall, in addition to any other order or decree the court makes under this chapter, order the bureau of motor vehicles to invalidate the child's operator's license for a period specified by the court of at least six (6) months but not more than two (2) years from the time the child would otherwise be eligible for a learner's permit.

As added by P.L.1-1997, SEC.20.

IC 31-37-19-15

Delinquent acts involving controlled or counterfeit substances or prescription drugs; denial of learner's permit

Sec. 15. (a) This section applies if a child is a delinquent child under IC 31-37-1 due to the commission of a delinquent act that, if committed by an adult, would be:

(1) dealing in:

(A) a controlled substance (as defined in IC 35-48-1-9); or

(B) a counterfeit substance (as defined in IC 35-48-1-10);

(2) possessing:

(A) a controlled substance (as defined in IC 35-48-1-9); or

(B) a prescription drug (as defined in IC 35-48-1-25);

for which the child does not have a prescription; or

(3) conspiring to commit an act described in subdivision (1) or (2).

(b) The juvenile court shall, in addition to any other order or decree the court makes under this chapter, order the bureau of motor vehicles not to issue the child a learner's permit for a period specified by the court of at least six (6) months but not more than one (1) year from the time the child would otherwise be eligible for a learner's permit.

As added by P.L.1-1997, SEC.20.

IC 31-37-19-16

Delinquent acts involving controlled or counterfeit substances or prescription drugs; prior adjudication of act on or near school property; denial of learner's permit

Sec. 16. (a) This section applies if:

(1) a child has been previously determined to be a delinquent child under IC 31-37-1 (or IC 31-6-4-1(b)(1) before its repeal) due to the commission of a delinquent act described in section 15(a)(1), 15(a)(2), or 15(a)(3) of this chapter (or IC 31-6-4-15.9(e)(1), IC 31-6-4-15.9(e)(2), or IC 31-6-4-15.9(e)(3) before its repeal); or

(2) the delinquent act described in section 15(a)(1), 15(a)(2), or 15(a)(3) of this chapter (or IC 31-6-4-15.9(e)(1), IC 31-6-4-15.9(e)(2), or IC 31-6-4-15.9(e)(3) before its repeal) was committed:

(A) on school property;

(B) within one thousand (1,000) feet of school property; or

(C) on a school bus.

(b) The juvenile court shall, in addition to any other order or decree the court makes under this chapter, order the bureau of motor vehicles not to issue the child a learner's permit for a period specified by the court of at least six (6) months but not more than two (2) years from the time the child would otherwise be eligible for a learner's permit.

As added by P.L.1-1997, SEC.20.

IC 31-37-19-17

Delinquent acts involving criminal mischief or use of graffiti; suspension of operator's license or invalidation of learner's permit

Sec. 17. (a) This section applies if a child is a delinquent child under IC 31-37-1 due to the commission of a delinquent act that, if committed by an adult, would be criminal mischief or institutional criminal mischief under IC 35-43-1-2 that involves the use of graffiti.

(b) The juvenile court may, in addition to any other order or decree the court makes under this chapter, order the bureau of motor vehicles to:

(1) suspend the child's operator's license; or

(2) invalidate the child's learner's permit;

for one (1) year beginning the date of the order.

As added by P.L.1-1997, SEC.20.

IC 31-37-19-17.2

Fuel theft by delinquent child

Sec. 17.2. (a) This section applies if a child is a delinquent child under IC 31-37-1 due to the commission of a delinquent act that, if committed by an adult, would be a theft or criminal conversion described in IC 35-43-4-8 (fuel theft).

(b) The juvenile court shall, in addition to any other order or decree the court makes under this chapter, order the bureau of motor vehicles to:

(1) suspend the child's driving privileges; or

(2) invalidate the child's driving privileges;

under IC 9-30-13-8 in the same manner as the bureau of motor vehicles is required to suspend the driving privileges of a person convicted of fuel theft.

As added by P.L.117-2001, SEC.5. Amended by P.L.125-2012, SEC.405.

IC 31-37-19-17.3 Version a

Suspension of child's driving privileges; reinstatement; probationary privileges; termination

Note: This version of section effective until 1-1-2015. See also following version of this section, effective 1-1-2015.

Sec. 17.3. (a) This section applies if a child is a delinquent child under IC 31-37-1 due to the commission of a delinquent act that, if committed by an adult, would be an offense under IC 9-30-5.

(b) The juvenile court shall, in addition to any other order or decree the court makes under this chapter, recommend the suspension of the child's driving privileges as provided in IC 9-30-5. If a court recommends suspension of a child's driving privileges under this section, the bureau of motor vehicles shall comply with the recommendation of suspension as provided in IC 9-30-6-12.

(c) If a court recommends suspension of a child's driving privileges under this section, the court may order the bureau of motor vehicles to reinstate the child's driving privileges as provided in IC 9-30-6-11.

(d) If a juvenile court orders the bureau of motor vehicles to reinstate a child's driving privileges under subsection (c), the bureau shall comply with the order. Unless the order for reinstatement is issued as provided under IC 9-30-6-11(a)(2) because of a violation of the speedy trial provisions applicable to the juvenile court, the bureau shall also do the following:

(1) Remove any record of the suspension from the bureau's record keeping system.

(2) Reinstate the privileges without cost to the person.

(e) If:

(1) a juvenile court recommends suspension of a child's driving privileges under this section; and

(2) the child did not refuse to submit to a chemical test offered as provided under IC 9-30-6-2 during the investigation of the delinquent act that would be an offense under IC 9-30-5 if committed by an adult;

the juvenile court may stay the execution of the suspension of the child's driving privileges and grant the child probationary driving privileges for one hundred eighty (180) days.

(f) If a juvenile court orders a suspension under this section and the child did not refuse to submit to a chemical test offered under IC 9-30-6-2 during the investigation of the delinquent act that would have been an offense under IC 9-30-5 if committed by an adult, the juvenile court may grant the child probationary driving privileges for one hundred eighty (180) days in conformity with the procedures in IC 9-30-5-12. The standards and procedures in IC 9-30-5-11 and IC 9-30-5-13 apply to an action under this subsection.

(g) A child whose driving privileges are suspended under this section is entitled to credit for any days during which the license was suspended under IC 31-37-5-7, if the child did not refuse to submit to a chemical test offered as provided under IC 9-30-6-2 during the investigation of the delinquent act that would be an offense under IC 9-30-5 if committed by an adult.

(h) A period of suspension of driving privileges imposed under this section must be consecutive to any period of suspension imposed

under IC 31-37-5-7. However, if the juvenile court finds in the sentencing order that it is in the best interest of society, the juvenile court may terminate all or any part of the remaining suspension under IC 31-37-5-7.

(i) The bureau of motor vehicles may adopt rules under IC 4-22-2 to carry out this section.

As added by P.L.32-2000, SEC.22.

IC 31-37-19-17.3 Version b

Suspension of child's driving privileges; reinstatement; specialized driving privileges; termination

Note: This version of section effective 1-1-2015. See also preceding version of this section, effective until 1-1-2015.

Sec. 17.3. (a) This section applies if a child is a delinquent child under IC 31-37-1 due to the commission of a delinquent act that, if committed by an adult, would be an offense under IC 9-30-5.

(b) The juvenile court shall, in addition to any other order or decree the court makes under this chapter, recommend the suspension of the child's driving privileges as provided in IC 9-30-5. If a court recommends suspension of a child's driving privileges under this section, the bureau of motor vehicles shall comply with the recommendation of suspension as provided in IC 9-30-6-12.

(c) If a court recommends suspension of a child's driving privileges under this section, the court may order the bureau of motor vehicles to reinstate the child's driving privileges as provided in IC 9-30-6-11.

(d) If a juvenile court orders the bureau of motor vehicles to reinstate a child's driving privileges under subsection (c), the bureau shall comply with the order. Unless the order for reinstatement is issued as provided under IC 9-30-6-11(a)(2) because of a violation of the speedy trial provisions applicable to the juvenile court, the bureau shall also do the following:

(1) Remove any record of the suspension from the bureau's record keeping system.

(2) Reinstate the privileges without cost to the person.

(e) If:

(1) a juvenile court recommends suspension of a child's driving privileges under this section; and

(2) the child did not refuse to submit to a chemical test offered as provided under IC 9-30-6-2 during the investigation of the delinquent act that would be an offense under IC 9-30-5 if committed by an adult;

the juvenile court may stay the execution of the suspension of the child's driving privileges and grant the child probationary driving privileges for one hundred eighty (180) days.

(f) If a juvenile court orders a suspension under this section and the child did not refuse to submit to a chemical test offered under IC 9-30-6-2 during the investigation of the delinquent act that would have been an offense under IC 9-30-5 if committed by an adult, the juvenile court may grant the child specialized driving privileges in

conformity with the procedures in IC 9-30-16.

(g) A child whose driving privileges are suspended under this section is entitled to credit for any days during which the license was suspended under IC 31-37-5-7, if the child did not refuse to submit to a chemical test offered as provided under IC 9-30-6-2 during the investigation of the delinquent act that would be an offense under IC 9-30-5 if committed by an adult.

(h) A period of suspension of driving privileges imposed under this section must be consecutive to any period of suspension imposed under IC 31-37-5-7. However, if the juvenile court finds in the sentencing order that it is in the best interest of society, the juvenile court may terminate all or any part of the remaining suspension under IC 31-37-5-7.

(i) The bureau of motor vehicles may adopt rules under IC 4-22-2 to carry out this section.

As added by P.L.32-2000, SEC.22. Amended by P.L.217-2014, SEC.184.

IC 31-37-19-17.4

Court may order a delinquent child to receive counseling

Sec. 17.4. (a) This section applies if a child is a delinquent child under IC 31-37-1 due to the commission of a delinquent act that, if committed by an adult, would be an offense relating to a criminal sexual act (as defined in IC 35-31.5-2-216).

(b) The juvenile court may, in addition to any other order or decree the court makes under this chapter, order:

(1) the child; and

(2) the child's parent or guardian;

to receive psychological counseling as directed by the court, subject to the applicable provisions of IC 31-37-17-1.4 and IC 31-37-18-9.

As added by P.L.70-2004, SEC.28. Amended by P.L.125-2007, SEC.3; P.L.146-2008, SEC.653; P.L.114-2012, SEC.53.

IC 31-37-19-18

Surrendering and forwarding driver's licenses or permits

Sec. 18. If the court orders invalidation or denial of issuance of driving privileges as described in IC 31-37-5-7 or section 4, 13, 14, 15, 16, 17, or 17.3 of this chapter (or IC 31-6-4-15.9(c), IC 31-6-4-15.9(d), IC 31-6-4-15.9(e), or IC 31-6-4-15.9(f) before the repeal of IC 31-6-4-15.9):

(1) the bureau of motor vehicles shall comply with the order for invalidation or denial of issuance; and

(2) the child shall surrender to the court all driver's licenses or permits of the child and the court shall immediately forward the licenses or permits to the bureau of motor vehicles.

If a juvenile court recommends suspension of driving privileges under section 17.3 of this chapter, IC 9-30-6-12(b), IC 9-30-6-12(c), IC 9-30-6-12(d), and IC 9-30-6-12(e) apply to the child's driving privileges.

As added by P.L.1-1997, SEC.20. Amended by P.L.32-2000, SEC.23;

P.L.109-2011, SEC.39; P.L.125-2012, SEC.406.

IC 31-37-19-19
Period of invalidation or denial of license or permit; maximum; order to allow receipt of license or permit before completion of period

Sec. 19. The juvenile court may:

(1) enter an order for the maximum period of invalidation or denial of issuance under sections 13, 14, 15, and 16 of this chapter; and

(2) following a determination that the child has committed no further delinquent acts, enter an order to allow the child to receive a license or permit before the period of invalidation or denial is completed.

As added by P.L.1-1997, SEC.20.

IC 31-37-19-20
Restitution or removal of graffiti; rescission of order suspending or invalidating operator's license or learner's permit

Sec. 20. (a) This section applies if the juvenile court has entered an order for suspension or invalidation of an operator's license or a learner's permit under section 17 of this chapter (or IC 31-6-4-15.9(f) before its repeal).

(b) Following a determination by the juvenile court that the child has removed or painted over the graffiti or has made other suitable restitution, the court may:

(1) rescind the order for suspension or invalidation; and

(2) allow the child to receive a license or permit before the period of suspension or invalidation ends.

As added by P.L.1-1997, SEC.20.

IC 31-37-19-21
Juvenile detention facility confining child for more than 30 days; criteria

Sec. 21. As part of a dispositional decree, a child may only be confined in a juvenile detention facility for more than thirty (30) days if the facility meets the following criteria:

(1) The facility provides to delinquent children a program that includes recreation, education, counseling, and health care.

(2) The program provides services and treatment to:

(A) meet the individual needs of the delinquent child;

(B) involve the delinquent child's family if possible; and

(C) provide transitional services for delinquent children returning to community placement.

(3) The program must be administered and operated by staff who are qualified through education and training to provide rehabilitation and treatment.

(4) The juvenile detention facility must meet the state standards and licensing requirements established by 210 IAC 6.

As added by P.L.1-1997, SEC.20.

IC 31-37-19-22

Dispositional decree containing a no contact order for child needing care, treatment, or rehabilitation; protective order depository; confidential form

Sec. 22. If a court issues a dispositional decree that includes a no contact order under section 6(b)(2)(G) of this chapter:

(1) the clerk of the court 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.20. Amended by P.L.133-2002, SEC.37.

IC 31-37-19-23

Placement in facility located outside child's county of residence

Sec. 23. A court may not place a child who is a delinquent child under IC 31-37-1 (or IC 31-6-4-1(b)(1) before its repeal) 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.20.

IC 31-37-19-24

Order for participation by parent, guardian, or custodian in program of care, treatment, or rehabilitation for child

Sec. 24. 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:

(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; and

(4) participate in a program operated by or through the department of correction.

As added by P.L.1-1997, SEC.20.

IC 31-37-19-25

Decree limiting contact with child; copies to parties and law enforcement agencies

Sec. 25. (a) The clerk of the court that enters a dispositional decree

under this article 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.20.

IC 31-37-19-26

Determination and reporting of legal settlement

Sec. 26. (a) This section applies if a juvenile court:

(1) places a child;

(2) changes the placement of a child; or

(3) reviews the implementation of a decree under IC 31-37-20 (or IC 31-6-4-19 before its repeal) 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 the:

(A) dispositional order;

(B) modification order; or

(C) 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 juvenile court may place a child in a public school, regardless of whether the public school has a waiting list for admissions, if the 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.20. Amended by P.L.1-2005, SEC.211; P.L.13-2006, SEC.6; P.L.159-2007, SEC.6; P.L.65-2012, SEC.7; P.L.160-2012, SEC.58.

IC 31-37-19-27
Emancipation of child

Sec. 27. (a) The juvenile court may emancipate a child under section 1(5) or 5(b)(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) Whenever 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:
  (A) the parent's or guardian's right to the control or custody of the child; and
  (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:

(1) IC 20-33-2 concerning compulsory school attendance; and
(2) the continuing jurisdiction of the court.

As added by P.L.1-1997, SEC.20. Amended by P.L.1-2005, SEC.212.

IC 31-37-19-28
Copy of dispositional decree of a Medicaid recipient child by court to division of family resources

Sec. 28. (a) This section applies if a predispositional report indicates that a child receives Medicaid and a court places the child in:

(1) a juvenile detention facility; or
(2) a secure facility, not including a facility licensed as a child caring institution under IC 31-27.

(b) The court shall immediately provide a copy of the dispositional decree to the division of family resources.

As added by P.L.114-2009, SEC.3.

IC 31-37-20

Chapter 20. Review of Dispositional Decrees; Formal Review Hearings

IC 31-37-20-1

Progress reports; procedure for modification of decree

Sec. 1. At any time after the date of an original dispositional decree, the juvenile court may order the probation department to file a report on the progress made in implementing the decree. If, after reviewing the report, the juvenile court seeks to consider modification of the dispositional decree, the court shall proceed under IC 31-37-22.

As added by P.L.1-1997, SEC.20. Amended by P.L.145-2006, SEC.348; P.L.146-2008, SEC.654.

IC 31-37-20-2

Periodic review of case

Sec. 2. (a) The court shall hold a formal hearing:

(1) every twelve (12) months after:

(A) the date of the original dispositional decree; or

(B) a delinquent child was removed from the child's parent, guardian, or custodian;

whichever occurs first; or

(2) more often if ordered by the juvenile court.

(b) The court shall determine whether the dispositional decree should be modified and whether the present placement is in the best interest of the child. The court, in making the court's determination, may consider the following:

(1) The services that have been provided or offered to a parent, guardian, or custodian to facilitate a reunion.

(2) The extent to which the parent, guardian, or custodian has enhanced the ability to fulfill parental obligations.

(3) The extent to which the parent, guardian, or custodian has visited the child, including the reasons for infrequent visitation.

(4) The extent to which the parent, guardian, or custodian has cooperated with the probation department.

(5) The child's recovery from any injuries suffered before removal.

(6) Whether additional services are required for the child or the child's parent, guardian, or custodian and, if so, the nature of the services.

(7) The extent to which the child has been rehabilitated.

(c) A review of the dispositional decree will be held at least once every six (6) months, or more often, if ordered by the court. At the review, the court shall determine whether or not the probation department has made reasonable efforts to finalize a permanency plan for the child, if required under IC 31-37-19-1.5.

As added by P.L.1-1997, SEC.20. Amended by P.L.145-2006, SEC.349; P.L.146-2008, SEC.655.

IC 31-37-20-3

Formal hearing on continued jurisdiction; periodic jurisdiction review; referral to permanency roundtable

Sec. 3. (a) The court shall hold a formal hearing on the question of continued jurisdiction:

(1) every eighteen (18) months after:

(A) the date of the original dispositional decree; or

(B) a delinquent child was removed from the child's parent, guardian, or custodian;

whichever comes first; or

(2) more often if ordered by the juvenile court.

(b) The state must show that jurisdiction should continue by proving that the objectives of the dispositional decree have not been accomplished and that a continuation of the decree with or without modifications has a probability of success.

(c) If the state does not sustain the state's burden for continued jurisdiction, the court may:

(1) authorize a petition for termination of the parent-child relationship; or

(2) discharge the child or the child's parent, guardian, or custodian.

(d) A jurisdictional review of the dispositional decree, including a review of the child's permanency plan, if required under IC 31-37-19-1.5, shall be held at least once every twelve (12) months.

(e) The department shall refer a child's permanency plan to a permanency roundtable before a jurisdictional review under subsection (d). The permanency roundtable may make recommendations regarding a permanency plan, and the recommendations must be included in a report under section 4 of this chapter.

As added by P.L.1-1997, SEC.20. Amended by P.L.146-2008, SEC.656; P.L.48-2012, SEC.73.

IC 31-37-20-4

Progress report required for case review or continued jurisdiction

Sec. 4. Before a hearing under section 2 or 3 of this chapter, the probation department shall prepare a report in accordance with IC 31-37-21 on the progress made in implementing the dispositional decree. A report under this section shall also include recommendations from the permanency roundtable under section 3 of this chapter.

As added by P.L.1-1997, SEC.20. Amended by P.L.145-2006, SEC.350; P.L.146-2008, SEC.657; P.L.48-2012, SEC.74.

IC 31-37-20-4.5

Notice of hearing; opportunity to be heard

Sec. 4.5. (a) At least ten (10) days before a hearing under section 2 or 3 of this chapter, the probation department shall send notice of the hearing 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) The child or an attorney who has entered an appearance on behalf of the child.
(4) 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 local 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.
(5) Any other person who:
(A) the probation 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.

(b) 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 hearing under section 2 or 3 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 delinquency 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.

(c) This section does not exempt the probation department from sending a notice of the review to each party to the delinquency proceeding.

(d) The court shall continue the hearing if, at the time set for the hearing, the probation department has not provided the court with a signed verification that any person required to be notified under this section has been notified in the manner stated in the verification, unless the person appears for the hearing.

As added by P.L.138-2007, SEC.86. Amended by P.L.128-2012, SEC.175; P.L.123-2014, SEC.28.

IC 31-37-20-5
Review of foster care placements; disclosure of confidential report or document

Sec. 5. (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. The board shall:

(1) review a foster care placement at the juvenile court's request; and

(2) file a report, including findings and recommendations, with the court.

(b) 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 a person who is not allowed disclosure by the court or by statute.

As added by P.L.1-1997, SEC.20.

IC 31-37-20-6

Review of child's legal settlement

Sec. 6. (a) This section applies if a juvenile court reviews the implementation of a decree under this chapter (or IC 31-6-4-19 before its repeal) 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 31-37-19-26 (or IC 31-6-4-18.5(b) before its repeal) 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 31-37-19-26 the court shall make the appropriate findings in the court's 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.20. Amended by P.L.1-2005, SEC.213.

IC 31-37-20-7

Discharge of child

Sec. 7. 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.20.

IC 31-37-21

Chapter 21. Reports Required for Reviewing Dispositional Decrees

IC 31-37-21-1

Progress report; modification report

Sec. 1. (a) Before a hearing under IC 31-37-20-2 or IC 31-37-20-3, the probation 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, reuniting the family, or finalizing another permanency plan as approved by the court.

(b) Before preparing the report required by subsection (a), the probation 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 probation department shall prepare a modification report containing the information required by IC 31-37-17 and request a formal court hearing.

As added by P.L.1-1997, SEC.20. Amended by P.L.145-2006, SEC.351; P.L.146-2008, SEC.658.

IC 31-37-21-2

Provision of copies of reports and factual summaries of reports

Sec. 2. (a) Except as provided by subsection (b), a report prepared by the state:

(1) for the juvenile court's review of the court's dispositional decree; or

(2) for use at a periodic case review or hearing under IC 31-37-20-2 or IC 31-37-20-3;

shall be made available to the child, and the child's parent, foster parent, guardian, guardian ad litem, custodian, court appointed special advocate, or any other person who is entitled to receive notice under IC 31-37-20-4.5 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 who is entitled to receive a report under subsection (a), the court is not required to make the report available to the person as required under subsection (a). However, the court shall provide a copy of the report to the following:

(1) Each attorney or a guardian ad litem representing the child.

(2) Each attorney representing the child's parent, guardian, or custodian.

(3) A 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.20. Amended by P.L.146-2006, SEC.58; P.L.138-2007, SEC.87.

IC 31-37-21-3

Admissibility of reports; opportunity to controvert report

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.20. Amended by P.L.138-2007, SEC.88.

IC 31-37-22

Chapter 22. Modification of Dispositional Decrees

IC 31-37-22-1

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 parent, guardian, custodian, or guardian ad litem;

(C) the probation officer; or

(D) the prosecuting attorney; 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.20. Amended by P.L.145-2006, SEC.352; P.L.146-2008, SEC.659.

IC 31-37-22-2

Award of guardianship of child to department of correction

Sec. 2. If a child has been in the custody of the department of correction under the juvenile court's original dispositional decree, the juvenile court may not award guardianship of the child back to the department unless the juvenile court holds a hearing and finds that the child violated a modified dispositional decree.

As added by P.L.1-1997, SEC.20.

IC 31-37-22-3

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 juvenile court may issue a temporary order. However, the probation officer 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 probation officer shall give notice to the persons affected and the juvenile court shall hold a hearing on the question.

(c) The procedures specified in IC 31-37-17-1.4 and IC 31-37-18-9 apply to any modification of a dispositional decree under this chapter that requires or would require payment by the department, under IC 31-40-1, for any of the costs of programs, placements, or services for or on behalf of the child.

As added by P.L.1-1997, SEC.20. Amended by P.L.146-2008, SEC.660.

IC 31-37-22-4

Notification of report; notice

Sec. 4. If a hearing is required, IC 31-37-17 governs the preparation and use of a modification report. The report shall be prepared if the state or any person other than the child or the child's parent, guardian, guardian ad litem, or custodian is requesting the modification. Notice of any hearing under this chapter shall be given in accordance with IC 31-37-18-1.

As added by P.L.1-1997, SEC.20. Amended by P.L.138-2007, SEC.89.

IC 31-37-22-4.5

Placement of delinquent child in out-of-home residence or facility; case plan

Sec. 4.5. (a) This section applies to a delinquent child if the child is placed in an out-of-home residence or facility that is not a secure detention facility.

(b) The probation department, after negotiating with the child's parent, guardian, or custodian, shall complete the child's case plan not later than sixty (60) days after the date of the child's first placement that the probation department requests to be paid for by the department.

(c) A copy of the completed case plan shall be sent to the department, 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.

(d) A child's case plan must be in a form prescribed by the department that meets the specifications set by 45 CFR 1356.21, as amended. The case plan must include a description and discussion of the following:

(1) A permanency 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 implemented or recommended, including consideration of possible placement with any suitable and willing relative, 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 presently is

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 and 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.

(e) The probation department and each caretaker of a child shall cooperate in the development of the case plan for the child. The probation department shall discuss with at least one (1) foster parent or other caretaker of a child the role of the substitute caretaker or facility 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.

(f) The case plan must be reviewed and updated by the probation department at least once every one hundred eighty (180) days.

As added by P.L.131-2009, SEC.72. Amended by P.L.123-2014, SEC.29.

IC 31-37-22-5

Placement of child in public or private facility for children

Sec. 5. If:

(1) a child is placed in a shelter care facility or other place of residence as part of a court order with respect to a delinquent act under IC 31-37-2-2;

(2) the child received a written warning of the consequences of a violation of the placement at the hearing during which the placement was ordered;

(3) the issuance of the warning was reflected in the records of the hearing;

(4) the child is not held in a juvenile detention facility for more than twenty-four (24) hours, excluding Saturdays, Sundays, and legal holidays, before the hearing at which it is determined that the child violated that part of the order concerning the child's placement in a shelter care facility or other place of residence; and

(5) the child's mental and physical condition may be endangered if the child is not placed in a secure facility;

the juvenile court may modify its disposition order with respect to the delinquent act and place the child in a public or private facility for children under section 7 of this chapter.

As added by P.L.1-1997, SEC.20. Amended by P.L.146-2008, SEC.661.

IC 31-37-22-6

Placement of child for noncompliance concerning compulsory

school attendance

Sec. 6. If:

(1) a child fails to comply with IC 20-33-2 concerning compulsory school attendance as part of a court order with respect to a delinquent act under IC 31-37-2-3 (or IC 31-6-4-1(a)(3) before its repeal);

(2) the child received a written warning of the consequences of a violation of the court order;

(3) the issuance of the warning was reflected in the records of the hearing;

(4) the child is not held in a juvenile detention facility for more than twenty-four (24) hours, excluding Saturdays, Sundays, and legal holidays, before the hearing at which it is determined that the child violated that part of the order concerning the child's school attendance; and

(5) the child's mental and physical condition may be endangered if the child is not placed in a secure facility;

the juvenile court may modify its disposition order with respect to the delinquent act and place the child in a public or private facility for children under section 7 of this chapter.

As added by P.L.1-1997, SEC.20. Amended by P.L.1-2005, SEC.214.

IC 31-37-22-7

Alternative facilities for placement

Sec. 7. (a) If the juvenile court modifies its disposition order under section 5 or 6 of this chapter, the court may order the child placed under one (1) of the following alternatives:

(1) In a nonlocal secure private facility licensed under the laws of any state. Placement under this alternative includes authorization to control and discipline the child.

(2) In a local secure private facility licensed under Indiana law. Placement under this alternative includes authorization to control and discipline the child.

(3) In a local secure public facility.

(4) In a local alternative facility approved by the juvenile court.

(5) As a ward of the department of correction for housing in any correctional facility for children. Wardship under this alternative does not include the right to consent to the child's adoption. However, without a determination of unavailable housing by the department of correction, a child found to be subject to section 5 or 6 of this chapter and placed in a secure facility of the department of correction may not be housed with any child found to be delinquent under any other provision of this article.

(b) If the juvenile court places a child under subsection (a)(3) or (a)(4):

(1) the length of the placement may not exceed thirty (30) days; and

(2) the juvenile court shall order specific treatment of the child designated to eliminate the child's disobedience of the court's order of placement.

(c) The juvenile court shall retain jurisdiction over any placement under this section (or IC 31-6-7-16(d) before its repeal) and shall review each placement every three (3) months to determine whether placement in a secure facility remains appropriate.
As added by P.L.1-1997, SEC.20.

IC 31-37-22-8
Description by local alternative facility seeking court approval

Sec. 8. A local alternative facility seeking the approval of the juvenile court shall provide the court with a description of the following:

(1) The facility's location and facilities.
(2) The facility's staff, including personnel qualifications.
(3) The maximum number of children who may be housed in the facility, including a ratio of staff to children when the facility is at maximum capacity.
(4) Funding sources.
(5) Programs that will be provided for children who are housed in the facility.

As added by P.L.1-1997, SEC.20.

IC 31-37-22-9
Copy of modified dispositional order for former Medicaid child recipient by court to division of family resources

Sec. 9. If:

(1) a juvenile court modifies its disposition order under this chapter;
(2) the child named in the order received Medicaid before disposition as indicated by the predispositional report; and
(3) the juvenile court previously placed or intends to place the child in:
    (A) a juvenile detention facility; or
    (B) a secure facility, not including a facility licensed as a child caring institution under IC 31-27;

the court shall immediately provide a copy of the modified dispositional decree to the division of family resources.
As added by P.L.114-2009, SEC.4.

IC 31-37-23

Chapter 23. Interstate Compact on Juveniles

IC 31-37-23-1

Provisions of compact

Sec. 1. The following compact, by and between the state of Indiana and any other state which has or shall hereafter ratify or legally join in the same, is ratified and approved.

The contracting states solemnly agree:

ARTICLE 1 – Findings and Purposes

That juveniles who are not under proper supervision and control, or who have absconded, escaped or run away, are likely to endanger their own health, morals and welfare, and the health, morals and welfare of others. The cooperation of the states party to this compact is therefore necessary to provide for the welfare and protection of juveniles and to the public with respect to (1) cooperative supervision of delinquent juveniles on probation or parole; (2) the return, from one (1) state to another, of delinquent juveniles who have escaped or absconded; (3) the return, from one (1) state to another, of nondelinquent juveniles who have run away from home; and (4) additional measures for the protection of juveniles and of the public, which any two (2) or more of the party states may find desirable to undertake cooperatively. In carrying out the provisions of this compact the party states shall be guided by the noncriminal, reformative and protective policies which guide their laws concerning delinquent, neglected or dependent juveniles generally. It shall be the policy of the states party to this compact to cooperate and observe their respective responsibilities for the prompt return and acceptance of juveniles and delinquent juveniles who become subject to the provisions of this compact. The provisions of this compact shall be reasonably and liberally construed to accomplish the foregoing purposes.

ARTICLE 2–Existing Rights and Remedies

That all remedies and procedures provided by this compact shall be in addition to and not in substitution for other rights, remedies and procedures, and shall not be in derogation of parental rights and responsibilities.

ARTICLE 3–Definitions

That, for the purpose of this compact, "delinquent juvenile" means any juvenile who has been adjudged delinquent and who, at the time the provisions of this compact are invoked, is still subject to the jurisdiction of the court that has made such adjudication or to the jurisdiction or supervision of an agency or institution pursuant to an order of such court; "probation or parole" means any kind of conditional release of juveniles authorized under the laws of the states party hereto; "court" means any court having jurisdiction over delinquent, neglected or dependent children; "state" means any state, territory or possessions of the United States, the District of Columbia, and the Commonwealth of Puerto Rico; and "residence" or any variant thereof means a place at which a home or regular place of

abode is maintained.

ARTICLE 4–Return of Runaways

(a) That the parent, guardian, person or agency entitled to legal custody of a juvenile who has not been adjudged delinquent but who has run away without the consent of such parent, guardian, person or agency may petition the appropriate court in the demanding state for the issuance of a requisition for his return. The petition shall state the name and age of the juvenile, the name of the petitioner and the basis of entitlement to the juvenile's custody, the circumstances of his running away, his location if known at the time application is made, and such other facts as may tend to show that the juvenile who has run away is endangering his own welfare or the welfare of others and is not an emancipated minor. The petition shall be verified by affidavit, shall be executed in duplicate, and shall be accompanied by two (2) certified copies of the document or documents on which the petitioner's entitlement to the juvenile's custody is based, such as birth certificates, letters of guardianship, or custody decrees. Such further affidavits and other documents as may be deemed proper may be submitted with such petition. The judge of the court to which this application is made may hold a hearing thereon to determine whether for the purposes of this compact the petitioner is entitled to the legal custody of the juvenile, whether or not it appears that the juvenile has in fact run away without consent, whether or not he is an emancipated minor, and whether or not it is in the best interest of the juvenile to compel his return to the state. If the judge determines, either with or without a hearing, that the juvenile should be returned, he shall present to the appropriate court or to the executive authority of the state where the juvenile is alleged to be located a written requisition for the return of such juvenile. Such requisition shall set forth the name and age of the juvenile, the determination of the court that the juvenile has run away without the consent of a parent, guardian, person or agency entitled to his legal custody, and that it is in the best interest and for the protection of such juvenile that he be returned. In the event that a proceeding for the adjudication of the juvenile as a delinquent, neglected or dependent juvenile is pending in the court at the time when such juvenile runs away, the court may issue a requisition for the return of such juvenile upon its own motion, regardless of the consent of the parent, guardian, person or agency entitled to legal custody, reciting therein the nature and circumstances of the pending proceeding. The requisition shall in every case be executed in duplicate and shall be signed by the judge. One (1) copy of the requisition shall be filed with the compact administrator of the demanding state, there to remain on file subject to the provisions of law governing records of such court. Upon the receipt of a requisition demanding the return of a juvenile who has run away, the court or the executive authority to whom the requisition is addressed shall issue an order to any peace officer or other appropriate person directing him to take into custody and detain such juvenile. Such detention order must substantially recite the facts necessary to the validity of its issuance hereunder. No juvenile

detained upon such order shall be delivered over to the officer whom the court demanding him shall have appointed to receive him, unless he shall first be taken forthwith before a judge of a court in the state, who shall inform him of the demand made for his return, and who may appoint counsel or guardian ad litem for him. If the judge of such court shall find that the requisition is in order, he shall deliver such juvenile over to the officer whom the court demanding him shall have appointed to receive him. The judge, however, may fix a reasonable time to be allowed for the purpose of testing the legality of the proceeding.

Upon reasonable information that a person is a juvenile who has run away from another state party to this compact without the consent of a parent, guardian, person or agency entitled to his legal custody, such juvenile may be taken into custody without a requisition and brought forthwith before a judge of the appropriate court who may appoint counsel or guardian ad litem for such juvenile and who shall determine after a hearing whether sufficient cause exists to hold the person, subject to the order of the court, for his own protection and welfare, for such a time not exceeding ninety (90) days as will enable his return to another state party to this compact pursuant to a requisition for his return from a court of this state. If, at the time when a state seeks the return of a juvenile who has run away, there is pending in the state wherein he is found any criminal charge, or any proceeding to have him adjudicated a delinquent juvenile for an act committed in such state, or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of such state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the juvenile being returned, shall be permitted to transport such juvenile through any and all states party to this compact, without interference. Upon his return to the state from which he ran away, the juvenile shall be subject to such further proceedings as may be appropriate under the laws of that state.

(b) That the state to which a juvenile is returned under this article shall be responsible for payment of the transportation costs of such return.

(c) That "juvenile" as used in this article means any person who is a minor under the law of the state of residence of the parent, guardian, person or agency entitled to the legal custody of such minor.

ARTICLE 5–Return of Escapees and Absconders

(a) That the appropriate person or authority from whose probation or parole supervision a delinquent juvenile has absconded or from whose institutional custody he has escaped shall present to the appropriate court or to the executive authority of the state where the delinquent juvenile is alleged to be located a written requisition for the return of such delinquent juvenile. Such requisition shall state the

name and age of the delinquent juvenile, the particulars of his adjudication as a delinquent juvenile, the circumstances of the breach of the terms of his probation or parole or of his escape from an institution or agency vested with his legal custody or supervision, and the location of such delinquent juvenile, if known, at the time the requisition is made. The requisition shall be verified by affidavit, shall be executed in duplicate, and shall be accompanied by two (2) certified copies of the judgment, formal adjudication, or order of commitment which subjects such delinquent juvenile to probation or parole or to the legal custody of the institution or agency concerned. Such further affidavits and other documents as may be deemed proper may be submitted with such requisition. One (1) copy of the requisition shall be filed with the compact administrator of the demanding state, there to remain on file subject to the provisions of law governing records of the appropriate court. Upon the receipt of a requisition demanding the return of a delinquent juvenile who has absconded or escaped, the court or the executive authority to whom the requisition is addressed shall issue an order to any peace officer or other appropriate person directing him to take into custody and detain such delinquent juvenile. Such detention order must substantially recite the facts necessary to the validity of its issuance hereunder. No delinquent juvenile detained upon such order shall be delivered over to the officer whom the appropriate person or authority demanding him shall have appointed to receive him, unless he shall first be taken forthwith before a judge of an appropriate court in the state, who shall inform him of the demand made for his return and who may appoint counsel or guardian ad litem for him. If the judge of such court shall find that the requisition is in order, he shall deliver such delinquent juvenile over to the officer whom the appropriate person or authority demanding him shall have appointed to receive him. The judge, however, may fix a reasonable time to be allowed for the purpose of testing the legality of the proceeding.

Upon reasonable information that a person is a delinquent juvenile who has absconded while on probation or parole, or escaped from an institution or agency vested with his legal custody or supervision in any state party to this compact, such person may be taken into custody in any other state party to this compact without a requisition. But in such event, he must be taken forthwith before a judge of the appropriate court, who may appoint counsel or guardian ad litem for such person and who shall determine, after a hearing, whether sufficient cause exists to hold the person subject to the order of the court for such a time, not exceeding ninety (90) days, as will enable his detention under a detention order issued on a requisition pursuant to this article. If, at the time when a state seeks the return of a delinquent juvenile who has either absconded while on probation or parole or escaped from an institution or agency vested with his legal custody or supervision, there is pending in the state wherein he is detained any criminal charge or any proceeding to have him adjudicated a delinquent juvenile for an act committed in such state, or if he is suspected of having committed within such state a criminal

offense or an act of juvenile delinquency, he shall not be returned without the consent of such state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the delinquent juvenile being returned, shall be permitted to transport such delinquent juvenile through any and all states party to this compact, without interference. Upon his return to the state from which he escaped or absconded, the delinquent juvenile shall be subject to such further proceedings as may be appropriate under the laws of that state.

(b) That the state to which a delinquent juvenile is returned under this article shall be responsible for the payment of the transportation costs of such return.

ARTICLE 6–Voluntary Return Procedure

That any delinquent juvenile who has absconded while on probation or parole, or escaped from an institution or agency vested with his legal custody or supervision in any state party to this compact, and any juvenile who has run away from any state party to this compact, who is taken into custody without a requisition in another state party to this compact under the provisions of Article 4(a) or of Article 5(a), may consent to his immediate return to the state from which he absconded, escaped or ran away. Such consent shall be given by the juvenile or delinquent juvenile and his counsel or guardian ad litem, if any, by executing or subscribing a writing, in the presence of a judge of the appropriate court, which states that the juvenile or delinquent juvenile and his counsel or guardian ad litem, if any, consent to his return to the demanding state. Before such consent shall be executed or subscribed, however, the judge, in the presence of counsel or guardian ad litem, if any, shall inform the juvenile or delinquent juvenile of his rights under this compact. When the consent has been duly executed, it shall be forwarded to and filed with the compact administrator of the state in which the court is located and the judge shall direct the officer having the juvenile or delinquent juvenile in custody to deliver him to the duly accredited officer or officers of the state demanding his return, and shall cause to be delivered to such officer or officers a copy of the consent. The court may, however, upon the request of the state to which the juvenile or delinquent juvenile is being returned, order him to return unaccompanied to such state and shall provide him with a copy of such court order; in such event a copy of the consent shall be forwarded to the compact administrator of the state to which said juvenile or delinquent juvenile is ordered to return.

ARTICLE 7–Cooperative Supervision of Probationers and Parolees

(a) That the duly constituted judicial and administrative authorities of a state party to this compact (herein called "sending state") may permit any delinquent juvenile within such state, placed on probation or parole, to reside in any other state party to this compact (herein called "receiving state") while on probation or parole, and the

receiving state shall accept such delinquent juvenile, if the parent, guardian or person entitled to the legal custody of such delinquent juvenile is residing or undertakes to reside within the receiving state. Before granting such permission, opportunity shall be given to the receiving state to make such investigations as it deems necessary. The authorities of the sending state shall send to the authorities of the receiving state copies of pertinent court orders, social case studies and all other available information which may be of value to and assist the receiving state in supervising a probationer or parolee under this compact. A receiving state, in its discretion, may agree to accept supervision of a probationer or parolee in cases where the parent, guardian or person entitled to the legal custody of the delinquent juvenile is not a resident of the receiving state, and if so accepted the sending state may transfer supervision accordingly.

(b) That each receiving state will assume the duties of visitation and of supervision over any such delinquent juvenile and in the exercise of those duties will be governed by the same standards of visitation and supervision that prevail for its own delinquent juveniles released on probation or parole.

(c) That, after consultation between the appropriate authorities of the sending state and of the receiving state as to the desirability and necessity of returning such a delinquent juvenile, the duly accredited officers of a sending state may enter a receiving state and there apprehend and retake any such delinquent juvenile on probation or parole. For that purpose, no formalities will be required, other than establishing the authority of the officer and the identity of the delinquent juvenile to be retaken and returned. The decision of the sending state to retake a delinquent juvenile on probation or parole shall be conclusive upon and not reviewable within the receiving state, but if, at the time the sending state seeks to retake a delinquent juvenile on probation or parole, there is pending against him within the receiving state any criminal charge or any proceeding to have him adjudicated a delinquent juvenile for any act committed in such state or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of the receiving state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of the sending state shall be permitted to transport delinquent juveniles being so returned through any and all states party to this compact, without interference.

(d) That the sending state shall be responsible under this article for paying the costs of transporting any delinquent juvenile to the receiving state or of returning any delinquent juvenile to the sending state.

ARTICLE 8–Responsibility for Costs

(a) That the provisions of Articles 4(b), 5(b), and 7(d) of this compact shall not be construed to alter or affect any internal relationship among the departments, agencies and officers of and in the government of a party state, or between a party state and its

subdivisions, as to the payment of costs, or responsibilities therefor.

(b) That nothing in this compact shall be construed to prevent any party state or subdivision thereof from asserting any right against any person, agency or other entity in regard to costs for which such party state or subdivision thereof may be responsible pursuant to Articles 4(b), 5(b) or 7(d) of this compact.

ARTICLE 9–Detention Practices

That, to every extent possible, it shall be the policy of states party to this compact that no juvenile or delinquent juvenile shall be placed or detained in any prison, jail or lockup nor be detained or transported in association with criminal, vicious or dissolute persons.

ARTICLE 10–Supplementary Agreements

That the duly constituted administrative authorities of a state party to this compact may enter into supplementary agreements with any other state or states party hereto for the cooperative care, treatment and rehabilitation of delinquent juveniles whenever they shall find that such agreements will improve the facilities or programs available for such care, treatment and rehabilitation located within any state entering into such supplementary agreement. Such supplementary agreements shall (1) provide the rates to be paid for the care, treatment and custody of such delinquent juveniles, taking into consideration the character of facilities, services and subsistence furnished; (2) provide that the delinquent juvenile shall be given a court hearing prior to his being sent to another state for care, treatment and custody; (3) provide that the state receiving such a delinquent juvenile in one (1) of its institutions shall act solely as agent for the state sending such delinquent juvenile; (4) provide that the sending state shall at all times retain jurisdiction over delinquent juveniles sent to an institution in another state; (5) provide for reasonable inspection of such institutions by the sending state; (6) provide that the consent of the parent, guardian, person or agency entitled to the legal custody of said delinquent juvenile shall be secured prior to his being sent to another state; and (7) make provision for such other matters and details as shall be necessary to protect the rights and equities of such delinquent juveniles and of the cooperating states.

ARTICLE 11–Acceptance of Federal and Other Aid

That any state party to this compact may accept any and all donations, gifts and grants of money, equipment and services from the federal or any local government, or any agency thereof and from any person, firm or corporation, for any of the purposes and functions of this compact, and may receive and utilize the same subject to the terms, conditions and regulations governing such donations, gifts and grants.

ARTICLE 12–Compact Administrators

That the governor of each state party to this compact shall designate an officer who, acting jointly with like officers of other party states, shall promulgate rules and regulations to carry out more effectively the terms and provisions of this compact.

ARTICLE 13–Execution of Compact

That this compact shall become operative immediately upon its execution by any state as between it and any other state or states so executing. When executed it shall have the full force and effect of law within such state, the form or execution to be in accordance with the laws of the executing state.

ARTICLE 14–Renunciation

That this compact shall continue in force and remain binding upon each executing state until renounced by it. Renunciation of this compact shall be by the same authority which executed it, by sending six (6) months' notice in writing of its intention to withdraw from the compact to the other states party hereto. The duties and obligations of a renouncing state under Article 7 hereof shall continue as to parolees and probationers residing therein at the time of withdrawal until retaken or finally discharged. Supplementary agreements entered into under Article 10 hereof shall be subject to renunciation as provided by such supplementary agreements, and shall not be subject to the six (6) months' renunciation notice of the present article.

ARTICLE 15–Severability

That the provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

AMENDMENT 1–Runaways

That this article shall provide additional remedies, and shall be binding only as among and between those party states which specifically execute the same.

For the purposes of this article, "child," as used herein, means any minor within the jurisdictional age limits of any court in the home state.

When any child is brought before a court of a state of which such child is not a resident, and such state is willing to permit such child's return to the home state of such child, such home state, upon being so advised by the state in which such proceeding is pending, shall immediately institute proceedings to determine the residence and jurisdictional facts as to such child in such home state, and upon finding that such child is in fact a resident of said state and subject to the jurisdiction of the court thereof, shall within five (5) days authorize the return of such child to the home state, and to the parent or custodial agency legally authorized to accept such custody in such home state, and at the expense of such home state, to be paid from such funds as such home state may procure, designate, or provide, prompt action being of the essence.

AMENDMENT 2–Rendition

(a) This amendment shall provide additional remedies, and shall be binding only as among and between those party states which specifically execute the same.

(b) All provisions and procedures of Articles 5 and 6 of the Interstate Compact on Juveniles shall be construed to apply to any juvenile charged with being a delinquent by reason of a violation of any criminal law. Any juvenile charged with being a delinquent by reason of violating any criminal law shall be returned to the requesting state upon a requisition to the state where the juvenile may be found. A petition in such case shall be filed in a court of competent jurisdiction in the requesting state where the violation of criminal law is alleged to have been committed. The petition may be filed regardless of whether the juvenile has left the state before or after the filing of the petition. The requisition described in Article 5 of the compact shall be forwarded by the judge of the court in which the petition has been filed.

AMENDMENT 3–Out-of-State Confinement

(a) Whenever the duly constituted judicial or administrative authorities in a sending state shall determine that confinement of a probationer or reconfinement of a parolee is necessary or desirable, said officials may direct that the confinement or reconfinement be in an appropriate institution for delinquent juveniles within the territory of the receiving state, such receiving state to act in that regard solely as agent for the sending state.

(b) Escapees and absconders who would otherwise be returned pursuant to Article 5 of the compact may be confined or reconfined in the receiving state pursuant to this amendment. In any such case the information and allegations required to be made and furnished in a requisition pursuant to such article shall be made and furnished, but in place of the demand pursuant to Article 5, the sending state shall request confinement or reconfinement in the receiving state. Whenever applicable, detention orders as provided in Article 5 may be employed pursuant to this paragraph preliminary to disposition of the escapee or absconder.

(c) The confinement or reconfinement of a parolee, probationer, escapee, or absconder pursuant to this amendment shall require the concurrence of the appropriate judicial or administrative authorities of the receiving state.

(d) As used in this amendment: (1) "sending state" means sending state as that term is used in Article 7 of the compact or the state from which a delinquent juvenile has escaped or absconded within the meaning of Article 5 of the compact; (2) "receiving state" means any state, other than the sending state, in which a parolee, probationer, escapee, or absconder may be found, provided that said state is a party to this amendment.

(e) Every state which adopts this amendment shall designate at least one (1) of its institutions for delinquent juveniles as a "Compact Institution" and shall confine persons therein as provided in paragraph (a) hereof unless the sending and receiving state in

question shall make specific contractual arrangements to the contrary. All states party to this amendment shall have access to "Compact Institutions" at all reasonable hours for the purpose of inspecting the facilities thereof and for the purpose of visiting such of said state's delinquents as may be confined in the institution.

(f) Persons confined in "Compact Institutions" pursuant to the terms of this compact shall at all times be subject to the jurisdiction of the sending state and may at any time be removed from said "Compact Institution" for transfer to an appropriate institution within the sending state, for return to probation or parole, for discharge, or for any purpose permitted by the laws of the sending state.

(g) All persons who may be confined in a "Compact Institution" pursuant to the provisions of this amendment shall be treated in a reasonable and humane manner. The fact of confinement or reconfinement in a receiving state shall not deprive any person so confined or reconfined of any rights which said person would have had if confined or reconfined in an appropriate institution of the sending state; nor shall any agreement to submit to confinement or reconfinement pursuant to the terms of this amendment be construed as a waiver of any rights which the delinquent would have had if he had been confined or reconfined in any appropriate institution of the sending state except that the hearing or hearings, if any, to which a parolee, probationer, escapee, or absconder may be entitled (prior to confinement or reconfinement) by the laws of the sending state may be had before the appropriate judicial or administrative officers of the receiving state. In this event, said judicial and administrative officers shall act as agents of the sending state after consultation with appropriate officers of the sending state.

(h) Any receiving state incurring costs or other expenses under this amendment shall be reimbursed in the amount of such costs or other expenses by the sending state unless the states concerned shall specifically otherwise agree. Any two (2) or more states party to this amendment may enter into supplementary agreements determining a different allocation of costs as among themselves.

(i) This amendment shall take initial effect when entered into by any two (2) or more states party to the compact and shall be effective as to those states which have specifically enacted this amendment. Rules and regulations necessary to effectuate the terms of this amendment may be promulgated by the appropriate officers of those states which have enacted this amendment.

As added by P.L.1-1997, SEC.20.

IC 31-37-23-2
"Compact" defined

Sec. 2. As used in this chapter, "compact" refers to the interstate compact on juveniles.

As added by P.L.1-1997, SEC.20.

IC 31-37-23-3
"Court" defined

Sec. 3. As used in this chapter, "court" refers to the juvenile court.
As added by P.L.1-1997, SEC.20.

IC 31-37-23-4
"Delinquent child" defined
Sec. 4. As used in this chapter, "delinquent child" has the meaning prescribed by IC 31-37-1-1 or IC 31-37-2-1.
As added by P.L.1-1997, SEC.20.

IC 31-37-23-5
"Dependent child" or "neglected child" defined
Sec. 5. As used in this chapter, "dependent child" or "neglected child" means a child in need of services under IC 31-34-1.
As added by P.L.1-1997, SEC.20.

IC 31-37-23-6
"Executive authority" defined
Sec. 6. As used in this chapter, "executive authority" means the compact administrator.
As added by P.L.1-1997, SEC.20.

IC 31-37-23-7
Compact administrator; appointment; duties
Sec. 7. (a) The governor shall appoint a compact administrator for parolees. The administrator is an employee of the department of correction.
(b) The judicial conference of Indiana shall appoint a compact administrator for probationers under the compact.
(c) The administrators, in cooperation with the compact administrators of other states, shall implement the compact.
As added by P.L.1-1997, SEC.20.

IC 31-37-23-8
Compact administrator; acceptance and supervision of children from other states
Sec. 8. Each compact administrator may accept children from other states under the compact and shall arrange for the supervision of the children. The child's supervisor shall make periodic reports to the compact administrator regarding the conduct and progress of each child.
As added by P.L.1-1997, SEC.20.

IC 31-37-23-9
Rules
Sec. 9. The judicial conference of Indiana shall adopt rules under IC 4-22-2 prescribing duties and procedures for administering probationers participating in the compact.
As added by P.L.1-1997, SEC.20.

IC 31-37-23-10

Supplementary agreements

Sec. 10. (a) The compact administrator may enter into supplementary agreements with other states under the compact.

(b) An agreement that involves a state agency or institution must be approved by the agency or institution.

As added by P.L.1-1997, SEC.20.

IC 31-37-24
Repealed

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

IC 31-37-25

Chapter 25. No Contact Orders

IC 31-37-25-1

Eligibility 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 prosecuting attorney.

(2) A probation officer.

(3) The department of correction.

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

As added by P.L.133-2002, SEC.38. Amended by P.L.145-2006, SEC.356; P.L.146-2008, SEC.662.

IC 31-37-25-2

Verification

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

As added by P.L.133-2002, SEC.38.

IC 31-37-25-3

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 delinquent child.

(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.38.

IC 31-37-25-4

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.38.

IC 31-37-25-5

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.38.

IC 31-38

ARTICLE 38. REPEALED

(Repealed by P.L.131-2009, SEC.76.)

IC 31-39

ARTICLE 39. JUVENILE LAW: JUVENILE RECORDS

IC 31-39-1

Chapter 1. Confidentiality of Juvenile Court Records

IC 31-39-1-1

Application of chapter

Sec. 1. (a) This chapter applies to all records of the juvenile court except the following:

(1) Records involving an adult charged with a crime or criminal contempt of court.

(2) Records involving a pregnant minor or her physician seeking a waiver of the requirement under IC 35-1-58.5-2.5 (before its repeal) or IC 16-34-2-4 that a physician who performs an abortion on an unemancipated minor first obtain the written consent of the minor's parent or guardian.

(3) Records involving proceedings that pertain to:

(A) paternity issues;

(B) custody issues;

(C) parenting time issues; or

(D) child support issues;

concerning a child born to parents who are not married to each other.

(b) The legal records subject to this chapter include the following:

(1) Chronological case summaries.

(2) Index entries.

(3) Summonses.

(4) Warrants.

(5) Petitions.

(6) Orders.

(7) Motions.

(8) Decrees.

As added by P.L.1-1997, SEC.22. Amended by P.L.1-2014, SEC.1.

IC 31-39-1-2

Confidentiality and access to juvenile court records

Sec. 2. All juvenile court records subject to this chapter are confidential and are available only in accordance with IC 31-39-2. The court shall take appropriate actions to protect juvenile court records governed by this chapter from unauthorized disclosure.

As added by P.L.1-1997, SEC.22.

IC 31-39-2

Chapter 2. Persons Entitled to Access to Juvenile Court Records

IC 31-39-2-1

Application of chapter

Sec. 1. (a) This chapter applies to all records of the juvenile court except the following:

(1) Records involving an adult charged with a crime or criminal contempt of court.

(2) Records involving a pregnant minor or her physician seeking a waiver of the requirement under IC 35-1-58.5-2.5 (before its repeal) or IC 16-34-2-4 that a physician who performs an abortion on an unemancipated minor first obtain the written consent of the minor's parent or guardian.

(3) Records involving proceedings that pertain to:

(A) paternity issues;

(B) custody issues;

(C) parenting time issues; or

(D) child support issues;

concerning a child born to parents who are not married to each other.

(b) The legal records subject to this chapter include the following:

(1) Chronological case summaries.

(2) Index summaries.

(3) Summonses.

(4) Warrants.

(5) Petitions.

(6) Orders.

(7) Motions.

(8) Decrees.

As added by P.L.1-1997, SEC.22. Amended by P.L.1-2014, SEC.2.

IC 31-39-2-2

Juvenile court judge and staff

Sec. 2. The records of the juvenile court are available without a court order to the judge or any authorized staff member.

As added by P.L.1-1997, SEC.22.

IC 31-39-2-3

Party and party's counsel

Sec. 3. (a) Except as provided in subsections (b) and (c), the records of the juvenile court are available without a court order to any party and the party's attorney. The party and the party's attorney may only review the records applicable to the proceeding in which the person is a party.

(b) A child excluded from a hearing under IC 31-32-6 may be denied access to records pertaining to that subject matter.

(c) A person who was denied access to a predisposition report or the records for a dispositional hearing may be denied access to that

subject matter.
As added by P.L.1-1997, SEC.22.

IC 31-39-2-4
Presentence investigations
Sec. 4. The records of the juvenile court are available without a court order to the judge of a court having criminal jurisdiction or any authorized staff member if the record is to be used in a presentence investigation in that court.
As added by P.L.1-1997, SEC.22.

IC 31-39-2-5
Prosecuting attorney and staff
Sec. 5. The records of the juvenile court are available without a court order to the prosecuting attorney or any authorized staff member.
As added by P.L.1-1997, SEC.22.

IC 31-39-2-6
Records available to certain individuals and agencies
Sec. 6. The records of the juvenile court are available without a court order to:
(1) the attorney for the department of child services; or
(2) any authorized staff member of:
(A) the local office;
(B) the department of child services;
(C) the department of correction; or
(D) the department of child services ombudsman established by IC 4-13-19-3.
As added by P.L.1-1997, SEC.22. Amended by P.L.145-2006, SEC.359; P.L.182-2009(ss), SEC.384; P.L.128-2012, SEC.176.

IC 31-39-2-6.5
Release of court records
Sec. 6.5. A juvenile court may release court records to an entity listed in IC 31-39-9-1 without a court order.
As added by P.L.67-2007, SEC.4.

IC 31-39-2-7
Parents
Sec. 7. The records of the juvenile court are available without a court order to the parents of a child whenever the custody or support of that child is in issue in an action initiated under IC 31-15 or IC 31-16 (or IC 31-1-11.5 before its repeal).
As added by P.L.1-1997, SEC.22.

IC 31-39-2-8
Public access to records of juvenile delinquency proceedings
Sec. 8. (a) The records of the juvenile court are available without a court order to the public, subject to the restrictions in subsections

(b) and (c), whenever a petition has been filed alleging that a child is delinquent as the result of any of the following alleged acts or combination of alleged acts:

(1) An act that would be murder or a felony if committed by an adult.

(2) An aggregate of two (2) unrelated acts that would be misdemeanors if committed by an adult if the child was at least twelve (12) years of age when the acts were committed.

(3) An aggregate of five (5) unrelated acts that would be misdemeanors if committed by an adult if the child was less than twelve (12) years of age when the acts were committed.

(b) Only the following information or documents may be released under this section:

(1) The child's name.

(2) The child's age.

(3) The nature of the offense.

(4) Chronological case summaries.

(5) Index entries.

(6) Summonses.

(7) Warrants.

(8) Petitions.

(9) Orders.

(10) Motions, excluding:

(A) motions concerning psychological evaluations; and

(B) motions concerning child abuse and neglect.

(11) Decrees.

(12) If the child is adjudicated as a delinquent child for an act or combination of acts described in subsection (a)(1), (a)(2), or (a)(3), the child's photograph.

(c) The clerk of the juvenile court shall place all other records of the child alleged to be or adjudicated as a delinquent child in an envelope marked "confidential" inside the court's file pertaining to the child. Records placed in the confidential envelope may only be released to persons who are allowed disclosure under this section or section 2, 3, 4, 5, 6, 7 or 10 of this chapter. The identifying information of any child who is a victim or a witness shall remain confidential under this section.

As added by P.L.1-1997, SEC.22.

IC 31-39-2-9

Person providing services to child or child's family

Sec. 9. The juvenile court may grant any person providing services to the child or the child's family access to the records on the child and the child's family.

As added by P.L.1-1997, SEC.22.

IC 31-39-2-10

Interested persons

Sec. 10. (a) Subject to section 15 of this chapter, the juvenile court may grant any person having a legitimate interest in the work of the

court or in a particular case access to the court's legal records. In exercising its discretion, the court shall consider that the best interests of the safety and welfare of the community are generally served by the public's ability to obtain information about:

(1) the alleged commission of an act that would be murder or a felony if committed by an adult; or

(2) the alleged commission of an act that would be part of a pattern of less serious offenses.

(b) A person having access to the records under this section is not bound by the confidentiality provisions of IC 31-39-1 and may disclose the contents of the records.

As added by P.L.1-1997, SEC.22.

IC 31-39-2-11

Researchers

Sec. 11. The juvenile court shall grant any person involved in a legitimate research activity access to the court's confidential records if:

(1) the person conducting the research provides written information about:

(A) the purpose of the person's project, including any intent to publish the person's findings;

(B) the nature of the data the person seeks to collect and how the person intends to analyze the data;

(C) the records the person seeks to review; and

(D) the safeguards the person will take to protect the identity of the persons whose records the person will be reviewing;

(2) the proposed safeguards are adequate to protect the identity of each person whose records the researcher will review;

(3) the court informs the researcher of the provisions of IC 31-39-1 and this chapter, including the criminal liability of a person who recklessly fails to protect the records; and

(4) an agreement is executed between the court and the person responsible for the research that specifies the terms of the researcher's use of the records.

As added by P.L.1-1997, SEC.22.

IC 31-39-2-12

Parties to criminal or juvenile delinquency proceedings

Sec. 12. (a) The juvenile court shall grant any party to a criminal or juvenile delinquency proceeding access to a person's legal records if the information may be used:

(1) to impeach the person as a witness; or

(2) to discredit the person's reputation if the person places reputation in issue.

(b) The information described in subsection (a) may only be used in criminal or juvenile delinquency proceedings in accordance with the law of evidence.

As added by P.L.1-1997, SEC.22.

IC 31-39-2-13
Victim of delinquent act or victim's family; disclosure in civil action

Sec. 13. (a) The juvenile court may grant the victim of a delinquent act, or a member of the victim's family, access to the court's legal records if the information may be used in a civil action against:

(1) the child who committed the act; or
(2) the child's parent.

(b) A person having access to the records under this section may disclose the contents of the record if disclosure is necessary to prosecute any civil action.

As added by P.L.1-1997, SEC.22.

IC 31-39-2-13.5
Juvenile court records available to certain persons to determine appropriateness of certain out-of-home placements

Sec. 13.5. The records of the juvenile court are available without a court order to an employee of the department of child services, a caseworker, or a juvenile probation officer conducting a criminal history check (as defined in IC 31-9-2-22.5) under IC 31-26-5-3, IC 31-34, or IC 31-37 to determine the appropriateness of an out-of-home placement for a:

(1) child at imminent risk of placement;
(2) child in need of services; or
(3) delinquent child.

As added by P.L.70-2004, SEC.29. Amended by P.L.234-2005, SEC.189; P.L.145-2006, SEC.360.

IC 31-39-2-13.8
School's access to juvenile court records; notice; confidentiality

Sec. 13.8. (a) The juvenile court may grant a school access to all or a portion of the juvenile court records of a child who is a student at the school if:

(1) the superintendent, or the superintendent's designee;
(2) the chief administrative officer of a nonpublic school, or the chief administrative officer's designee; or
(3) the individual with administrative control within a charter school, or the individual's designee;

submits a written request that meets the requirements of subsection (b).

(b) A written request must establish that the juvenile court records described in subsection (a) are necessary for the school to:

(1) serve the educational needs of the child whose records are being released; or
(2) protect the safety or health of a student, an employee, or a volunteer at the school.

(c) A juvenile court that releases juvenile court records under this section shall provide notice to the child and to the child's parent, guardian, or custodian that the child's juvenile records have been disclosed to the school.

(d) A juvenile court that releases juvenile court records under this section shall issue an order requiring the school to keep the juvenile court records confidential. A confidentiality order issued under this subsection does not prohibit a school that receives juvenile court records from forwarding the juvenile records to:

(1) another school;

(2) a person if a parent, guardian, or custodian of the child consents to the release of the juvenile court records to the person; or

(3) an entity listed in IC 31-39-9-1.

A school or a person that receives juvenile court records under this subsection must keep the juvenile court records confidential.

As added by P.L.85-2004, SEC.51. Amended by P.L.67-2007, SEC.5.

IC 31-39-2-14

Filing of copies of access order or agreement with researcher

Sec. 14. Whenever the juvenile court grants access to its records, the court shall place a copy of the access order in the file of each person to whose records the order applies. However, if the access order is a general access order or an agreement under section 11 of this chapter (or IC 31-6-8-1(e) before its repeal), the copy shall be placed in a general file containing all general access orders or agreements under section 11 of this chapter (or IC 31-6-8-1(e) before its repeal).

As added by P.L.1-1997, SEC.22.

IC 31-39-2-15

Waiver of restrictions

Sec. 15. A person who is at least eighteen (18) years of age may waive the restrictions on access to the person's records if the person does so in writing, stating the terms of the person's waiver.

As added by P.L.1-1997, SEC.22.

IC 31-39-3

Chapter 3. Confidentiality of Law Enforcement Records

IC 31-39-3-1

Application of chapter

Sec. 1. This chapter applies to all law enforcement records involving allegations that a child is a delinquent child or a child in need of services.

As added by P.L.1-1997, SEC.22.

IC 31-39-3-2

Public access to juvenile delinquency records

Sec. 2. The following information contained in records involving allegations of delinquency that would be a crime if committed by an adult is considered public information:

(1) The nature of the offense allegedly committed and the circumstances immediately surrounding the alleged offense, including the time, location, and property involved.

(2) The identity of any victim.

(3) A description of the method of apprehension.

(4) Any instrument of physical force used.

(5) The identity of any officers assigned to the investigation, except for the undercover units.

(6) The age and sex of any child apprehended or sought for the alleged commission of the offense.

(7) The identity of a child, if the child is apprehended or sought for the alleged commission of:

(A) an offense over which a juvenile court does not have jurisdiction under IC 31-30-1-2 and IC 31-30-1-4; or

(B) an act specified under IC 31-30-3-3.

As added by P.L.1-1997, SEC.22.

IC 31-39-3-3

Public inspection of records of child's detention in secure facility

Sec. 3. Records relating to the detention of any child in a secure facility shall be open to public inspection.

As added by P.L.1-1997, SEC.22.

IC 31-39-3-4

Confidentiality and access to law enforcement records

Sec. 4. (a) All law enforcement records except those described in sections 2 and 3 of this chapter are confidential and are available only in accordance with IC 31-39-4.

(b) Each law enforcement agency shall take appropriate actions to protect the records described in subsection (a) from unauthorized disclosure.

As added by P.L.1-1997, SEC.22.

IC 31-39-4

Chapter 4. Persons Entitled to Access to Law Enforcement Records

IC 31-39-4-1

Application of chapter

Sec. 1. This chapter applies to all law enforcement records involving allegations that a child is a delinquent child or a child in need of services.

As added by P.L.1-1997, SEC.22.

IC 31-39-4-2

Law enforcement agency head or officer

Sec. 2. The records of a law enforcement agency are available, without specific permission from the head of the agency, to a law enforcement officer acting within the scope of the officer's lawful duties.

As added by P.L.1-1997, SEC.22.

IC 31-39-4-3

Juvenile court judge or staff

Sec. 3. The records of a law enforcement agency are available, without specific permission from the head of the agency, to the judge of the juvenile court or any authorized staff member.

As added by P.L.1-1997, SEC.22.

IC 31-39-4-4

Party or party's attorney in juvenile court proceedings

Sec. 4. (a) The records of a law enforcement agency are available, without specific permission from the head of the agency, to any party to a juvenile court proceeding and the party's attorney. However, a:

(1) child excluded from a hearing by IC 31-32-6 may be denied access to records pertaining to that subject matter; and

(2) person who was denied access to a predispositional report or the records for a dispositional hearing may be denied access to that subject matter.

(b) The party and the party's attorney may only review the records applicable to the proceeding in which the person is a party.

As added by P.L.1-1997, SEC.22.

IC 31-39-4-5

Presentence investigations

Sec. 5. The records of a law enforcement agency are available, without specific permission from the head of the agency, to the judge of a court having criminal jurisdiction or any authorized staff member if the record is to be used in a presentence investigation in that court.

As added by P.L.1-1997, SEC.22.

IC 31-39-4-6

Prosecuting attorney or staff

Sec. 6. The records of a law enforcement agency are available, without specific permission from the head of the agency, to the prosecuting attorney or any authorized member of the staff of the prosecuting attorney.
As added by P.L.1-1997, SEC.22.

IC 31-39-4-7
Access to records by certain staff of department of child services and department of child services ombudsman

Sec. 7. The records of a law enforcement agency are available, without specific permission from the head of the agency, to:

(1) the attorney for the department of child services or any authorized staff member; or

(2) any authorized staff member of the department of child services ombudsman established by IC 4-13-19-3.

As added by P.L.1-1997, SEC.22. Amended by P.L.145-2006, SEC.361; P.L.182-2009(ss), SEC.385.

IC 31-39-4-8
Interested persons

Sec. 8. (a) The head of a law enforcement agency or that person's designee may grant any person having a legitimate interest in the work of the agency or in a particular case access to the agency's confidential records. In exercising discretion, the head of a law enforcement agency shall consider that the best interests of the safety and welfare of the community are generally served by the public's ability to obtain information about:

(1) the identity of anyone charged with the alleged commission of any act that would be murder or a felony if committed by an adult; and

(2) the identity of anyone charged with the alleged commission of an act that would be part of a pattern of less serious offenses.

(b) A person having access to records under this section is not bound by the confidentiality provisions of IC 31-39-3 and may disclose the contents of the records.
As added by P.L.1-1997, SEC.22.

IC 31-39-4-9
Researchers

Sec. 9. The head of a law enforcement agency may grant any person involved in a legitimate research activity access to the agency's confidential records if:

(1) the person conducting the research provides written information about:

(A) the purpose of the person's project, including any intent to publish the person's findings;

(B) the nature of the data the person seeks to collect and how the person intends to analyze the data;

(C) the records the person seeks to review; and

(D) the safeguards the person will take to protect the identity

of the persons whose records will be reviewed;

(2) the proposed safeguards are adequate to protect the identity of each person whose records the researcher will review;

(3) the agency informs the researcher of the provisions of this section including the criminal liability of a person who recklessly fails to protect the records; and

(4) an agreement is executed between the agency and the person responsible for the research that specifies the terms of the researcher's use of the records.

As added by P.L.1-1997, SEC.22.

IC 31-39-4-10

Party to criminal or juvenile delinquency proceedings

Sec. 10. (a) The head of the law enforcement agency shall grant any party to a criminal or juvenile delinquency proceeding access to a person's records if the information may be used:

(1) to impeach the person as a witness; or

(2) to discredit the person's reputation if the person places reputation in issue.

(b) The information may only be used in criminal or juvenile delinquency proceedings in accordance with the law of evidence.

As added by P.L.1-1997, SEC.22.

IC 31-39-4-11

Victim of delinquent act

Sec. 11. The victim of a delinquent act may ask a law enforcement agency if there is probable cause to believe that a specified child committed the act. The head of the agency shall release the child's name to the victim if the victim requires the name to proceed with a civil action for damages.

As added by P.L.1-1997, SEC.22.

IC 31-39-4-12

Filing of copies of access order or agreement with researcher

Sec. 12. Whenever the head of a law enforcement agency grants access to the agency's records, that person shall place a copy of the access order in the file of each person to whose records the order applies. However, if the access order is a general access order or an agreement under section 9 of this chapter (or IC 31-6-8-1.2(d) before its repeal), the copy shall be placed in a general file containing all general access orders or agreements.

As added by P.L.1-1997, SEC.22.

IC 31-39-4-13

Waiver of restrictions

Sec. 13. A person who is at least eighteen (18) years of age may waive the restrictions on access to the person's records if the person does so in writing, stating the terms of the waiver.

As added by P.L.1-1997, SEC.22.

IC 31-39-4-14

Limited jurisdiction and control of juvenile court over law enforcement records

Sec. 14. A judge of a juvenile court or the judge's employees may not exercise any jurisdiction or control over:

(1) records kept and maintained by law enforcement agencies relating to juveniles; and

(2) the discretion granted to heads of law enforcement agencies to release, or to grant access to, records and information unless otherwise specifically provided in the juvenile law, including IC 31-37-4-3 and IC 31-39-9. Any specific authority that is granted does not imply the existence of any other jurisdiction or control.

As added by P.L.1-1997, SEC.22. Amended by P.L.67-2007, SEC.3.

IC 31-39-5

Chapter 5. Fingerprints or Photographs of Child

IC 31-39-5-1

Taking and filing

Sec. 1. (a) A law enforcement agency may take and file the fingerprints or photographs of a child if:

(1) the child is taken into custody for an act that would be a felony if committed by an adult; and

(2) the child was at least fourteen (14) years of age when the act was allegedly committed.

(b) A juvenile court may, by general order, limit fingerprinting and photographing of children to situations in which children are charged with specified offenses.

As added by P.L.1-1997, SEC.22.

IC 31-39-5-2

Separation from adult files; confidentiality

Sec. 2. Fingerprint and photograph files of children shall be separated from those of adults. The files are subject to the confidentiality provisions of IC 31-39-3.

As added by P.L.1-1997, SEC.22.

IC 31-39-5-3

Fingerprinting and comparison

Sec. 3. If:

(1) latent fingerprints are found during the investigation of an offense; and

(2) a law enforcement officer has probable cause to believe that the latent fingerprints belong to a certain child;

the officer may fingerprint that child and compare the child's fingerprints with the latent fingerprints.

As added by P.L.1-1997, SEC.22.

IC 31-39-5-4

Destruction

Sec. 4. (a) Upon written request of the child or the child's parent, guardian, or custodian, a law enforcement agency shall destroy or deliver to the child any of the child's fingerprints or photographs taken under section 1 of this chapter that are within that agency's possession if:

(1) the child was taken into custody and no petition was filed against the child;

(2) the petition was dismissed because of mistaken identity;

(3) the petition was dismissed because no delinquent act was actually committed; or

(4) the petition was dismissed for lack of probable cause.

(b) If the child has a record of prior arrests or if another charge is pending against the child, the law enforcement agency does not have to destroy the child's fingerprints or photographs.

As added by P.L.1-1997, SEC.22.

IC 31-39-5-5
Notice of rights

Sec. 5. At the time a law enforcement agency takes a child's fingerprints or photographs, the law enforcement agency shall give written notice to the child and the child's parent, guardian, or custodian of the child's rights under section 4 of this chapter. The agency shall comply with any request for destruction or surrender of the records not later than sixty (60) days of the request.
As added by P.L.1-1997, SEC.22.

IC 31-39-5-6
Destruction of copies forwarded to other agencies

Sec. 6. Any law enforcement agency that has forwarded copies of fingerprints or photographs that the law enforcement agency must destroy under section 4 of this chapter to any agency of the United States, of any other state, or of this state, shall request in writing that all copies be returned for destruction or for presentation to the child.
As added by P.L.1-1997, SEC.22.

IC 31-39-5-7
Expungement of record

Sec. 7. Whenever fingerprints or photographs are expunged from the files of a law enforcement agency under section 4 of this chapter, the law enforcement agency may retain no other information on the incident. However, this section does not require the alteration of any law enforcement record, such as a blotter entry made at the time of arrest, or of any record in the juvenile court.
As added by P.L.1-1997, SEC.22.

IC 31-39-6

Chapter 6. Confidentiality of School Records

IC 31-39-6-1

Confidentiality of preliminary inquiry proceedings compiled by school officials

Sec. 1. If:

(1) a preliminary inquiry under IC 31-34-7 or IC 31-37-8 takes place in a school; and

(2) the preliminary inquiry is conducted in the presence of school officials;

any record of the proceeding compiled by school officials is confidential and is not open to public inspection under IC 5-14-3-3.

As added by P.L.1-1997, SEC.22.

IC 31-39-7

Chapter 7. Correction of Incorrect or Misleading Information

IC 31-39-7-1

Juvenile court records

Sec. 1. A person on whom juvenile court records subject to IC 31-39-1 and IC 31-39-2 are maintained may request the court to modify any information that the person believes is incorrect or misleading.

As added by P.L.1-1997, SEC.22.

IC 31-39-7-2

Law enforcement records

Sec. 2. A person on whom law enforcement records subject to IC 31-39-3 and IC 31-39-4 are maintained may request the law enforcement agency to modify any information that the person believes is incorrect or misleading.

As added by P.L.1-1997, SEC.22.

IC 31-39-8

Chapter 8. Expungement of Records Concerning Delinquent Child or Child in Need of Services

IC 31-39-8-1

Application of chapter

Sec. 1. This chapter applies only to records created as a result of allegations that a child is a delinquent child or a child in need of services.

As added by P.L.1-1997, SEC.22.

IC 31-39-8-2

Standing

Sec. 2. Any person may petition a juvenile court at any time to remove from:

(1) the court's files;

(2) the files of law enforcement agencies; and

(3) the files of any other person who has provided services to a child under a court order;

those records pertaining to the person's involvement in juvenile court proceedings.

As added by P.L.1-1997, SEC.22.

IC 31-39-8-3

Factors considered

Sec. 3. In considering whether to grant the petition, the juvenile court may review:

(1) the best interests of the child;

(2) the age of the person during the person's contact with the juvenile court or law enforcement agency;

(3) the nature of any allegations;

(4) whether there was an informal adjustment or an adjudication;

(5) the disposition of the case;

(6) the manner in which the person participated in any court ordered or supervised services;

(7) the time during which the person has been without contact with the juvenile court or with any law enforcement agency;

(8) whether the person acquired a criminal record; and

(9) the person's current status.

As added by P.L.1-1997, SEC.22.

IC 31-39-8-4

Expungement of child abuse or neglect information

Sec. 4. (a) Child abuse or neglect information may be expunged under this chapter if the probative value of the information is so doubtful as to outweigh the information's validity.

(b) Child abuse or neglect information shall be expunged if the information is determined to be unsubstantiated after:

(1) an investigation of a report of a child who may be a victim

of child abuse or neglect by the department of child services; or (2) a court proceeding.

As added by P.L.1-1997, SEC.22. Amended by P.L.234-2005, SEC.190.

IC 31-39-8-5

Expungement of records held by law enforcement agencies and persons providing treatment for child

Sec. 5. If the court grants the expungement petition, the court shall order each law enforcement agency and each person who provided treatment for the child under an order of the court to send that person's records to the court.

As added by P.L.1-1997, SEC.22.

IC 31-39-8-6

Method of expungement

Sec. 6. The records may be destroyed or given to the person to whom the records pertain.

As added by P.L.1-1997, SEC.22.

IC 31-39-8-7

Use of expunged records in civil action

Sec. 7. If a person whose records are expunged brings an action that might be defended with the contents of the records, the defendant is presumed to have a complete defense to the action. For the plaintiff to recover, the plaintiff must show that the contents of the expunged records would not exonerate the defendant. The plaintiff may be required to state under oath whether the plaintiff had records in the juvenile justice system and whether those records were expunged. If the plaintiff denies the existence of the records, the defendant may prove the existence of the records in any manner compatible with the law of evidence.

As added by P.L.1-1997, SEC.22.

IC 31-39-9

Chapter 9. Exchange of Information Concerning Delinquent Children

IC 31-39-9-1

Exchange of information regarding delinquent children

Sec. 1. The following entities and agencies may exchange records of a child who is a child in need of services or has been determined to be a delinquent child under IC 31-37-1-2, if the information or records are not confidential under state or federal law:

(1) A court.

(2) A law enforcement agency.

(3) The department of correction.

(4) The department of child services.

(5) The office of the secretary of family and social services.

(6) A primary or secondary school, including a public or nonpublic school.

(7) The department of child services ombudsman established by IC 4-13-19-3.

As added by P.L.67-2007, SEC.6. Amended by P.L.182-2009(ss), SEC.386.

IC 31-40

ARTICLE 40. JUVENILE LAW: FUNDING

IC 31-40-1

Chapter 1. Cost of Services; Liability of Parent or Guardian to Pay

IC 31-40-1-0.2

Application of certain amendments to prior law

Sec. 0.2. The amendments made to IC 31-6-4-18 (before its repeal, now codified in this chapter) by P.L.270-1995 apply only to services provided or fees imposed after May 3, 1995.

As added by P.L.220-2011, SEC.517.

IC 31-40-1-1

Application of article

Sec. 1. This article applies to costs paid by the department, the department of correction, and counties under this chapter, including costs resulting from the institutional placement of a child adjudicated a delinquent child or a child in need of services.

As added by P.L.1-1997, SEC.23. Amended by P.L.146-2008, SEC.663; P.L.204-2011, SEC.2.

IC 31-40-1-1.5

Definitions

Sec. 1.5. (a) As used in this chapter, "costs of secure detention" includes all expenses relating to any of the following items:

(1) Construction, repair, operation, maintenance, and administration of a secure detention facility.

(2) Room, board, supervision, and support services for housing at a secure detention facility of a child who has been:

(A) taken into custody under IC 31-37-5 and placed in a secure detention facility for purposes of court proceedings under IC 31-37; or

(B) placed in a secure detention facility under IC 31-37-19-6 or IC 31-37-19-10.

(3) Services provided by the department, a county probation office, or any service provider contracted by the department or county probation office if the services are provided:

(A) to or for the benefit of the child;

(B) under or consistent with the terms of a dispositional decree entered in accordance with IC 31-37-19-6 or IC 31-37-19-10; and

(C) during the time the child is housed in a secure detention facility.

(b) As used in this chapter, "secure detention facility" includes:

(1) a juvenile detention center described in IC 31-31-8 or IC 31-31-9; or

(2) a secure facility, including any separate unit or structure, that is:

(A) not licensed by the department under IC 31-27; or
(B) located outside Indiana.

(c) As used in this chapter, "services" includes education, provision of necessary clothing and supplies, medical and dental care, counseling and remediation, or any other services or programs included in a dispositional decree or case plan ordered or approved by the juvenile court for the benefit of a delinquent child under IC 31-37.

As added by P.L.146-2008, SEC.664.

IC 31-40-1-1.7
Repealed

(Repealed by P.L.2-2005, SEC.131.)

IC 31-40-1-2
Obligation of parent, guardian, or department for costs of services or return of child

Sec. 2. (a) Except as otherwise provided in this section and subject to:

(1) this chapter; and
(2) any other provisions of IC 31-34, IC 31-37, or other applicable law relating to the particular program, activity, or service for which payment is made by or through the department;

the department shall pay the cost of any child services provided by or through the department for any child or the child's parent, guardian, or custodian.

(b) The department shall pay the cost of returning a child under IC 31-37-23 or IC 11-13-4.5-1.5.

(c) Except as provided under section 2.5 of this chapter, the department is not responsible for payment of any costs of secure detention.

(d) The department is not responsible for the payment of any costs or expenses for child services for a child placed in a child caring institution, a group home, or a private secure facility if the entity does not have an executed contract with the department, unless the child services to be provided by the entity are recommended or approved by the director of the department or the director's designee in writing prior to the placement.

(e) The department is not responsible for payment of any costs or expenses for housing or services provided to or for the benefit of a child placed by a juvenile court in a home or facility located outside Indiana, if the placement is not recommended or approved by the director of the department or the director's designee.

(f) If a county is responsible for the payment of:

(1) any costs or expenses of services for or the placement of a child in need of services; or
(2) the costs or expenses of services for or the placement of a delinquent child;

the court may order the parents to reimburse the county as set forth

in section 3.8 of this chapter.
As added by P.L.1-1997, SEC.23. Amended by P.L.273-1999, SEC.119; P.L.146-2008, SEC.665; P.L.182-2009(ss), SEC.387; P.L.204-2011, SEC.3; P.L.48-2012, SEC.75.

IC 31-40-1-2.5
Payment of cost for certain services; department agreement with probation office

Sec. 2.5. (a) This section applies to a child who is:
(1) adjudicated a child in need of services under IC 31-34;
(2) a party in a pending child in need of services proceeding under the jurisdiction of a juvenile court;
(3) receiving services for which payment has been made by the department under a case plan and a dispositional decree in the child in need of services proceeding; and
(4) placed in a secure detention facility by order of a juvenile court, based on a determination by the juvenile court that the child committed, or that probable cause exists to believe that the child committed, a delinquent act described in IC 31-37-1-2 at a time after adjudication in the child in need of services case.

(b) The department may, by agreement with the probation office of the juvenile court in which the delinquency case is pending, pay the cost of specified services for a child described in subsection (a), during the time the child is placed in a secure detention facility.

(c) An agreement under this section must specify:
(1) the particular services that will be paid by the department during the time the child is placed in a secure detention facility;
(2) the term of the agreement;
(3) any procedure or limitations relating to amendment or extension of the agreement; and
(4) any other provision that the parties consider necessary or appropriate.

(d) The child's case plan in a child in need of services case, as prepared and approved by the department under IC 31-34-15, shall be attached to and made a part of the agreement.

(e) An agreement under this section:
(1) shall be signed by:
(A) the director of the department; and
(B) the judge of the juvenile court that ordered or approved placement of the child in the secure detention facility; and
(2) may not be considered to be a contract for purposes of IC 4-13-2.
As added by P.L.146-2008, SEC.666.

IC 31-40-1-3
Obligation of parent or guardian for cost of services provided to child adjudicated delinquent or in need of services; child support obligation worksheet; manner of payment

Sec. 3. (a) A parent or guardian of the estate of:
(1) a child adjudicated a delinquent child or a child in need of

services; or

(2) a participant in a program of informal adjustment approved by a juvenile court under IC 31-34-8 or IC 31-37-9;

is financially responsible as provided in this chapter (or IC 31-6-4-18(e) before its repeal) for any services provided by or through the department.

(b) Each person described in subsection (a) shall, before a hearing under subsection (c) concerning payment or reimbursement of costs, furnish the court and the department with an accurately completed and current child support obligation worksheet on the same form that is prescribed by the Indiana supreme court for child support orders.

(c) At:

(1) a detention hearing;

(2) a hearing that is held after the payment of costs by the department under section 2 of this chapter (or IC 31-6-4-18(b) before its repeal);

(3) the dispositional hearing; or

(4) any other hearing to consider modification of a dispositional decree;

the juvenile court shall order the child's parents or the guardian of the child's estate to pay for, or reimburse the department for the cost of services provided to the child or the parent or guardian unless the court makes a specific finding that the parent or guardian is unable to pay or that justice would not be served by ordering payment from the parent or guardian.

(d) Any parental reimbursement obligation under this section shall be paid directly to the department and not to the local court clerk so long as the child in need of services case, juvenile delinquency case, or juvenile status offense case is open. The department shall keep track of all payments made by each parent and shall provide a receipt for each payment received. At the end of the child in need of services, juvenile delinquency, or juvenile status action, the department shall provide an accounting of payments received, and the court may consider additional evidence of payment activity and determine the amount of parental reimbursement obligation that remains unpaid. The court shall reduce the unpaid balance to a final judgment that may be enforced in any court having jurisdiction over such matters.

(e) After a judgment for unpaid parental reimbursement obligation is rendered, payments made toward satisfaction of the judgment shall be made to the clerk of the court in the county where the enforcement action is filed and shall be promptly forwarded to the department in the same manner as any other judgment payment.

As added by P.L.1-1997, SEC.23. Amended by P.L.273-1999, SEC.120; P.L.146-2008, SEC.667; P.L.182-2009(ss), SEC.388.

IC 31-40-1-3.5

Parental reimbursement for services provided by the department of correction

Sec. 3.5. (a) If a juvenile court:

(1) adjudicates a child to be a delinquent child; and

(2) awards wardship of the child to the department of correction; the juvenile court may conduct a hearing. The juvenile court shall use the Child Support Rules and Guidelines of the Indiana supreme court and the child support obligation worksheet developed by the Indiana supreme court to determine what each parent should pay for the services provided for the child under this section. If the parent participates with the treatment plans developed by the department of correction, the parent or parents are entitled to receive a parenting time credit under the Child Support Rules and Guidelines. The hearing may be conducted before or after the department of correction incurs costs for a child.

(b) Each parent shall, before a hearing under subsection (a), furnish the juvenile court and the department of correction with an accurately completed and current child support obligation worksheet on the same form that is prescribed by the Indiana supreme court for child support orders.

(c) A juvenile court may not order a parent to pay or reimburse the department of correction if the juvenile court makes a specific finding that the parent is unable to pay or that justice would not be served by ordering payment from the parent.

(d) If, after a hearing, the juvenile court orders a parent to pay or reimburse costs, the parent is financially responsible for the costs of treatment services incurred by the department of correction.

(e) Any parental reimbursement obligation under this section shall be paid directly to the clerk of the court so long as the juvenile delinquency case is open. The clerk of the court shall keep track of all payments made by each parent and shall provide a receipt for each payment received. At the end of the juvenile delinquency action, the clerk of the court shall provide an accounting of payments received, and the juvenile court may consider additional evidence of payment activity and determine the amount of parental reimbursement obligation that remains unpaid. The juvenile court shall reduce the unpaid balance to a final judgment that may be enforced in any court having jurisdiction over such matters.

(f) After a judgment for unpaid parental reimbursement obligation is rendered, payments made toward satisfaction of the judgment shall be made to the clerk of the court in the county where the enforcement action is filed and shall be forwarded promptly to the department of correction in the same manner as any other judgment payment.

(g) The department of correction may compromise a claim owed by a parent under this section. The department of correction, after obtaining the advice of the attorney general, may notify the court of a parental reimbursement obligation that is willfully ignored.

(h) Upon release from the department of correction, the parental reimbursement obligation payment to the department of correction ends. If there was a child support order for the child adjudicated delinquent, it reverts to the most recent child support order in effect before the child's adjudication. If the child is placed with a person other than a custodial parent, the juvenile court shall establish a new support order for the benefit of the child being released from the

department of correction.

(i) The department of correction shall deposit money collected under this section in the division of youth services transitional services fund established by IC 11-10-2-11.

As added by P.L.204-2011, SEC.4.

IC 31-40-1-3.8

Parental reimbursement for services provided by a county

Sec. 3.8. (a) If a county is responsible for the payment of:

(1) any costs or expenses of services for or the placement of a child in need of services; or

(2) the costs or expenses of services for or the placement of a delinquent child under section 2 of this chapter;

the juvenile court ordering the services that the county is responsible for may hold a hearing. The juvenile court shall use the Child Support Rules and Guidelines of the Indiana supreme court and the child support obligation worksheet developed by the Indiana supreme court to determine what each parent should pay for the services provided for the child under this section. If the parent participates with the treatment plans developed by the department or court, the parent or parents are entitled to receive a parenting time credit under the Child Support Rules and Guidelines.

(b) Each person described in subsection (a) shall, before a hearing under subsection (c) concerning payment or reimbursement of costs, furnish the court with an accurately completed and current child support obligation worksheet on the same form that is prescribed by the Indiana supreme court for child support orders.

(c) At:

(1) a detention hearing;

(2) a hearing that is held after the payment of costs by the county;

(3) the dispositional hearing; or

(4) any other hearing to consider modification of a dispositional decree;

the juvenile court shall order the child's parents to pay for, or reimburse the county for, the cost of services provided to the child or the parent unless the court makes a specific finding that the parent is unable to pay or that justice would not be served by ordering payment from the parent.

(d) Any parental reimbursement obligation under this section shall be paid directly to the clerk of the court so long as the child in need of services case, juvenile delinquency case, or juvenile status offense case is open. The clerk of the court shall keep track of all payments made by each parent and shall provide a receipt for each payment received. At the end of the child in need of services, juvenile delinquency, or juvenile status action, the clerk of the court shall provide an accounting of payments received, and the court may consider additional evidence of payment activity and determine the amount of parental reimbursement obligation that remains unpaid. The court shall reduce the unpaid balance to a final judgment that

may be enforced in any court having jurisdiction over such matters.

(e) After a judgment for unpaid parental reimbursement obligation is rendered, payments made toward satisfaction of the judgment shall be made to the clerk of the court in the county where the enforcement action is filed.

(f) The county may collect any money that is owed under this section as provided by IC 36-1-4-17.

(g) Upon release from services ordered under this section, the parental reimbursement obligation payment ends. If there was a child support order for the child adjudicated delinquent, it reverts to the most recent child support order in effect before the child's adjudication. If the child is placed with a person other than a custodial parent, the juvenile court shall establish a new support order for the benefit of the child.

As added by P.L.204-2011, SEC.5.

IC 31-40-1-4

Obligation of parent or guardian for costs of returning child to Indiana under interstate compact on juveniles

Sec. 4. The parent or guardian of the estate of any child returned to Indiana under the interstate compact on juveniles under IC 31-37-23 shall reimburse the department for all costs involved in returning the child that the court orders the parent or guardian to pay under section 3 of this chapter (or IC 31-6-4-18(e) before its repeal) whether or not the child has been adjudicated a delinquent child or a child in need of services.

As added by P.L.1-1997, SEC.23. Amended by P.L.146-2008, SEC.668.

IC 31-40-1-5

Obligation of parent or guardian for costs of institutional placement of child; remittance of support payments; enforcement

Sec. 5. (a) This section applies whenever the court approves removal of a child from the home of a child's parent or guardian and the department places the child in a child caring institution, a foster family home, a group home, or the home of a relative of the child that is not a foster family home.

(b) If an existing support order is in effect, the juvenile court shall order the support payments to be assigned to the department for the duration of the placement out of the home of the child's parent or guardian. The juvenile court shall notify the court that:

(1) entered the existing support order; or

(2) had jurisdiction, immediately before the placement, to modify or enforce the existing support order;

of the assignment and assumption of jurisdiction by the juvenile court under this section.

(c) If an existing support order is not in effect, the court shall do the following:

(1) Include in the order for out-of-home placement of the child an assignment to the department or confirmation of an

assignment that occurs or is required under applicable federal law, of any rights to support, including support for the cost of any medical care payable by the state under IC 12-15, from any parent or guardian who has a legal obligation to support the child.

(2) Order support paid to the department by each of the child's parents or the guardians of the child's estate to be based on child support guidelines adopted by the Indiana supreme court and for the duration of the placement of the child out of the home of the child's parent or guardian, unless:

(A) the court finds that entry of an order based on the child support guidelines would be unjust or inappropriate considering the best interests of the child and other necessary obligations of the child's family; or

(B) the department does not make foster care maintenance payments to the custodian of the child. For purposes of this clause, "foster care maintenance payments" means any payments for the cost of (in whole or in part) providing food, clothing, shelter, daily supervision, school supplies, a child's personal incidentals, liability insurance with respect to a child, and reasonable amounts for travel to the child's home for visitation. In the case of a child caring institution, the term also includes the reasonable costs of administration and operation of the institution as are necessary to provide the items described in this clause.

(3) If the court:

(A) does not enter a support order; or

(B) enters an order that is not based on the child support guidelines;

the court shall make findings as required by 45 CFR 302.56(g).

(d) Payments in accordance with a support order assigned under subsection (b) or entered under subsection (c) (or IC 31-6-4-18(f) before its repeal) shall be paid through the clerk of the circuit court as trustee for remittance to the department.

(e) The Title IV-D agency shall establish, modify, or enforce a support order assigned or entered by a court under this section in accordance with IC 31-25-3, IC 31-25-4, and 42 U.S.C. 654. The department shall, if requested, assist the Title IV-D agency in performing its duties under this subsection.

(f) If the juvenile court terminates placement of a child out of the home of the child's parent or guardian, the court shall:

(1) notify the court that:

(A) entered a support order assigned to the department under subsection (b); or

(B) had jurisdiction, immediately before the placement, to modify or enforce the existing support order;

of the termination of jurisdiction of the juvenile court with respect to the support order;

(2) terminate a support order entered under subsection (c) that requires payment of support by a custodial parent or guardian of

the child, with respect to support obligations that accrue after termination of the placement; or

(3) continue in effect, subject to modification or enforcement by a court having jurisdiction over the obligor, a support order entered under subsection (c) that requires payment of support by a noncustodial parent or guardian of the estate of the child.

(g) The court may at or after a hearing described in section 3 of this chapter order the child's parent or the guardian of the child's estate to reimburse the department for all or any portion of the expenses for services provided to or for the benefit of the child that are paid by the department during the placement of the child out of the home of the parent or guardian, in addition to amounts reimbursed through payments in accordance with a support order assigned or entered as provided in this section, subject to applicable federal law.

As added by P.L.1-1997, SEC.23. Amended by P.L.273-1999, SEC.121; P.L.145-2006, SEC.362; P.L.146-2008, SEC.669.

IC 31-40-1-6

Contracts for enforcement and collection of parental reimbursement obligations

Sec. 6. (a) The department may contract with any of the following, on terms and conditions with respect to compensation and payment or reimbursement of expenses as the department may determine, for the enforcement and collection of any parental reimbursement obligation established by order entered by the court under section 3 or 5(g) of this chapter:

(1) The prosecuting attorney of the county in which the juvenile court that ordered or approved the services is located or in which the obligor resides.

(2) An attorney licensed to practice law in Indiana, if the attorney is not an employee of the department.

(3) A private collection agency licensed under IC 25-11.

(b) A contract entered into under this section is subject to approval under IC 4-13-2-14.1.

(c) Any fee payable to a prosecuting attorney under a contract under subsection (a)(1) shall be deposited in the county general fund and credited to a separate account identified as the prosecuting attorney's child services collections account. The prosecuting attorney may expend funds credited to the prosecuting attorney's child services collections account, without appropriation, only for the purpose of supporting and enhancing the functions of the prosecuting attorney in enforcement and collection of parental obligations to reimburse the department.

(d) Contracts between a prosecuting attorney, a private attorney, or a collection agency licensed under IC 25-11 and the department:

(1) must:

(A) be in writing;

(B) include:

(i) all fees, charges, and costs, including administrative and

application fees; and

(ii) the right of the department to cancel the contract at any time;

(C) require the prosecuting attorney, private attorney, or collection agency, upon the request of the department, to provide the:

(i) source of each payment received for a parental reimbursement order;

(ii) form of each payment received for a parental reimbursement order; and

(iii) amount and percentage that is deducted as a fee or a charge from each payment on the parental reimbursement order; and

(D) have a term of not more than four (4) years; and

(2) may be negotiable contingency contracts in which a prosecuting attorney, private attorney, or collection agency may not collect a fee that exceeds fifteen percent (15%) of the parental reimbursement collected per case.

(e) A prosecuting attorney, private attorney, or collection agency that contracts with the department under this section may, in addition to the collection of the parental reimbursement order, assess and collect from an obligor all fees, charges, costs, and other expenses as provided under the terms of the contract described in subsection (d).

As added by P.L.273-1999, SEC.122. Amended by P.L.145-2006, SEC.363; P.L.146-2008, SEC.670; P.L.182-2009(ss), SEC.389.

IC 31-40-1-7

Distribution of payments

Sec. 7. Amounts received as payment of support or reimbursement of the cost of services paid as provided in this chapter shall be distributed in the following manner:

(1) If any part of the cost of services was paid from federal funds under Title IV Part E of the Social Security Act (42 U.S.C. 671 et seq.), the amounts received shall first be applied as provided in 42 U.S.C. 657 and 45 CFR 302.52.

(2) All amounts remaining after the distributions required by subdivision (1) shall be deposited in the state general fund.

As added by P.L.273-1999, SEC.123. Amended by P.L.145-2006, SEC.364; P.L.146-2008, SEC.671.

IC 31-40-2

Chapter 2. Probation User's Fee; County Supplemental Juvenile Probation Services Fund

IC 31-40-2-1

Probation user's fees; administrative fee; administrative costs; transfer of three percent of probation user's fee; collection of administrative fee; payment by credit card; credit card security

Sec. 1. (a) Subject to IC 31-40-1-3, a juvenile court may order each delinquent child who receives supervision under IC 31-37-19 or the child's parent, guardian, or custodian to pay to either the probation department or the clerk of the court:

(1) an initial probation user's fee of at least twenty-five dollars ($25) but not more than one hundred dollars ($100);

(2) a probation user's fee of at least ten dollars ($10) but not more than twenty-five dollars ($25) for each month the child receives supervision; and

(3) an administrative fee of one hundred dollars ($100) if the delinquent child is supervised by a juvenile probation officer.

(b) If a clerk of a court collects a probation user's fee, the clerk:

(1) may keep not more than three percent (3%) of the fee to defray the administrative costs of collecting the fee and shall deposit any fee kept under this subsection in the clerk's record perpetuation fund established under IC 33-37-5-2; and

(2) if requested to do so by the county auditor, city fiscal officer, or town fiscal officer under clause (A), (B), or (C), transfer not more than three percent (3%) of the fee to the:

(A) county auditor who shall deposit the money transferred under this subdivision into the county general fund;

(B) city general fund when requested by the city fiscal officer; or

(C) town general fund when requested by the town fiscal officer.

(c) The probation department or clerk shall collect the administrative fee under subsection (a)(3) before collecting any other fee under subsection (a). The probation department or the clerk shall deposit the probation user's fees and the administrative fees paid under subsection (a) into the county supplemental juvenile probation services fund.

(d) In addition to other methods of payment allowed by law, a probation department may accept payment of fees required under this section and section 1.5 of this chapter by credit card (as defined in IC 14-11-1-7). The liability for payment is not discharged until the probation department receives payment or credit from the institution responsible for making the payment or credit.

(e) The probation department may contract with a bank or credit card vendor for acceptance of bank or credit cards. However, if there is a vendor transaction charge or discount fee, whether billed to the probation department or charged directly to the probation department's account, the probation department may collect a credit

card service fee from the person using the bank or credit card. The fee collected under this subsection is a permitted additional charge to the money the probation department is required to collect under subsection (a).

(f) The probation department shall deposit the credit card service fees collected under subsection (e) into the county supplemental juvenile probation services fund. These funds may be used without appropriation to pay the transaction charge or discount fee charged by the bank or credit card vendor.

As added by P.L.1-1997, SEC.23. Amended by P.L.277-2003, SEC.5; P.L.98-2004, SEC.116.

IC 31-40-2-1.5

Increased probation user's fee

Sec. 1.5. Notwithstanding the probation user's fee amounts established under section 1 of this chapter, a court may order a person to pay a probation user's fee that exceeds the maximum amount allowed under section 1 of this chapter if:

(1) the person was placed on probation in another state and moved or was transferred to Indiana;

(2) the other state allows a higher probation user's fee than the maximum amount allowed under section 1 of this chapter; and

(3) the probation user's fee the court orders the person to pay does not exceed the maximum amount allowed in the other state.

As added by P.L.277-2003, SEC.6.

IC 31-40-2-1.7 Version a

Early payment of probation user's fee; recalculation of probation user's fee; discharge; multiple fees; wage garnishment; withholding driving privileges

Note: This version of section effective until 1-1-2015. See also following version of this section, effective 1-1-2015.

Sec. 1.7. (a) A person may pay a monthly probation user's fee under section 1 or 1.5 of this chapter before the date the payment is required to be made without obtaining the prior approval of a court or a probation department. However, if a delinquent child is discharged from probation before the date the delinquent child was scheduled to be released from probation, any monthly probation user's fee paid in advance for the delinquent child may not be refunded.

(b) A probation department may petition a court to:

(1) impose a probation user's fee on a person; or

(2) increase a person's probation user's fee;

under section 1 or 1.5 of this chapter if the financial ability of the person to pay a probation user's fee changes while the person is on probation.

(c) An order to pay a probation user's fee under section 1 or 1.5 of this chapter:

(1) is a judgment lien that:

(A) attaches to the property of the person subject to the order;
(B) may be perfected;
(C) may be enforced to satisfy any payment that is delinquent under section 1 or 1.5 of this chapter; and
(D) expires;
in the same manner as a judgment lien created in a civil proceeding;
(2) is not discharged by the completion of the person's probationary period or other sentence imposed on the person; and
(3) is not discharged by the liquidation of a person's estate by a receiver under IC 32-30-5.

(d) A delinquent child placed on probation for more than one (1) delinquent act:
(1) may be required to pay more than one (1) initial probation user's fee; and
(2) may not be required to pay more than one (1) monthly probation user's fee per month;
to either the probation department or the clerk of the court.

(e) If a court orders a person to pay a probation user's fee under section 1 or 1.5 of this chapter, the court may garnish the wages, salary, and other income earned by the person to enforce the order.

(f) If:
(1) a person is delinquent in paying the person's probation user's fees required under section 1 or 1.5 of this chapter; and
(2) the person's driving privileges or driver's license or permit has been suspended or revoked or the person has never been issued a driver's license or permit;
the court may order the bureau of motor vehicles to not issue a driver's license or permit to the person until the person has paid the person's delinquent probation user's fees.

As added by P.L.2-2005, SEC.82. Amended by P.L.125-2012, SEC.407.

IC 31-40-2-1.7 Version b

Early payment of probation user's fee; recalculation of probation user's fee; discharge; multiple fees; wage garnishment

Note: This version of section effective 1-1-2015. See also preceding version of this section, effective until 1-1-2015.

Sec. 1.7. (a) A person may pay a monthly probation user's fee under section 1 or 1.5 of this chapter before the date the payment is required to be made without obtaining the prior approval of a court or a probation department. However, if a delinquent child is discharged from probation before the date the delinquent child was scheduled to be released from probation, any monthly probation user's fee paid in advance for the delinquent child may not be refunded.

(b) A probation department may petition a court to:
(1) impose a probation user's fee on a person; or

(2) increase a person's probation user's fee;

under section 1 or 1.5 of this chapter if the financial ability of the person to pay a probation user's fee changes while the person is on probation.

(c) An order to pay a probation user's fee under section 1 or 1.5 of this chapter:

(1) is a judgment lien that:

(A) attaches to the property of the person subject to the order;

(B) may be perfected;

(C) may be enforced to satisfy any payment that is delinquent under section 1 or 1.5 of this chapter; and

(D) expires;

in the same manner as a judgment lien created in a civil proceeding;

(2) is not discharged by the completion of the person's probationary period or other sentence imposed on the person; and

(3) is not discharged by the liquidation of a person's estate by a receiver under IC 32-30-5.

(d) A delinquent child placed on probation for more than one (1) delinquent act:

(1) may be required to pay more than one (1) initial probation user's fee; and

(2) may not be required to pay more than one (1) monthly probation user's fee per month;

to either the probation department or the clerk of the court.

(e) If a court orders a person to pay a probation user's fee under section 1 or 1.5 of this chapter, the court may garnish the wages, salary, and other income earned by the person to enforce the order.

As added by P.L.2-2005, SEC.82. Amended by P.L.125-2012, SEC.407; P.L.217-2014, SEC.185.

IC 31-40-2-2

Appropriations; restrictions on use of county supplemental juvenile probation services

Sec. 2. (a) The fiscal body of the county shall appropriate money from the county supplemental juvenile probation services fund:

(1) to the juvenile courts of the county for the use by the courts in supplementing probation services to juveniles; and

(2) to supplement the salaries of juvenile probation officers in accordance with the salary schedule set by the county fiscal body under IC 36-2-16.5.

(b) Money in the county supplemental juvenile probation services fund may be used only for supplementing probation services and to supplement the salaries of probation officers in accordance with IC 31-31-5.

As added by P.L.1-1997, SEC.23. Amended by P.L.277-2003, SEC.7.

IC 31-40-2-3

County supplemental juvenile probation services fund; disposition of unused money

Sec. 3. Money remaining in the county supplemental juvenile probation services fund at the end of the county's fiscal year does not revert to any other fund but continues in the county supplemental juvenile probation services fund.

As added by P.L.1-1997, SEC.23.

IC 31-40-2-4

County supplemental juvenile probation services fund; restrictions on use of fund

Sec. 4. The county supplemental juvenile probation services fund may not be used to replace other funding or probation services.

As added by P.L.1-1997, SEC.23.

IC 31-40-3

Chapter 3. Guardian Ad Litem or Court Appointed Special Advocate User Fee; Guardian Ad Litem or Court Appointed Special Advocate Fund

IC 31-40-3-1

User fee

Sec. 1. Subject to IC 31-40-1-3, juvenile court may order the parent or guardian of the estate of any child for whom a guardian ad litem or court appointed special advocate is appointed to pay to the probation department a user fee of not more than one hundred dollars ($100) for deposit by the probation department in:

(1) the guardian ad litem fund if a guardian ad litem has been appointed; or

(2) the court appointed special advocate fund if a court appointed special advocate has been appointed.

As added by P.L.1-1997, SEC.23.

IC 31-40-3-2

Appropriations

Sec. 2. The fiscal body of the county shall appropriate money from:

(1) the guardian ad litem fund; or

(2) the court appointed special advocate fund;

to the juvenile courts of the county for use by the courts in providing guardian ad litem or court appointed special advocate services and the costs of representation for the guardians ad litem or court appointed special advocates.

As added by P.L.1-1997, SEC.23.

IC 31-40-3-3

Funds; disposition of unused money

Sec. 3. Money remaining in the guardian ad litem fund or court appointed special advocate fund at the end of the county's fiscal year does not revert to any other fund but continues in the guardian ad litem fund or court appointed special advocate fund.

As added by P.L.1-1997, SEC.23.

IC 31-40-3-4

Use of adoption incentive payment

Sec. 4. An adoption incentive payment that is paid to Indiana under the federal Adoption and Safe Families Act (42 U.S.C. 473A(d)) must be used for services to facilitate the adoption of children who are in need of services and may be used for postadoption services.

As added by P.L.35-1998, SEC.27.

IC 31-40-4

Chapter 4. Failure to Pay Fees

IC 31-40-4-1

Contempt

Sec. 1. If the parent or guardian of the estate:

(1) defaults in reimbursing the county or department, as ordered by the juvenile court; or

(2) fails to pay a fee authorized by this article;

the juvenile court may find the parent or guardian in contempt and enter judgment for the amount due.

As added by P.L.1-1997, SEC.23. Amended by P.L.146-2008, SEC.672.