

# **Appendix D**

## **Juvenile Codes**

**Indiana Juvenile Code**  
**CPT Code Citations and Copies of Sections**

**Prepared October 12, 2012**

*Child Welfare Laws*

**IC 31-33-2**

**Repealed**

*(Repealed by P.L.145-2006, SEC.376.)*

**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 31-9-2-9.6**

**"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 31-9-2-13**

#### **"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 31-9-2-16.4**

### **"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 31-9-2-28**

### **"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 31-9-2-31**

#### **"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 31-9-2-37**

#### **"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 31-9-2-38.5**

#### **"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 31-9-2-42**

#### **"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 31-9-2-44.8**

#### **"Family preservation services"**

Sec. 44.8. "Family preservation services", for purposes of 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.*

**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 31-9-2-50****"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 31-9-2-52**

#### **"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 31-9-2-58.3**

#### **"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 31-9-2-76.6**

#### **"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 31-9-2-87**

#### **"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 31-9-2-88.7**

##### **"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 31-9-2-94**

##### **"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 31-9-2-101**

##### **"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 31-9-2-103.6**

##### **"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 31-9-2-106**

##### **"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****"Related"**

Sec. 106.5. "Related", for purposes of IC 31-27 and IC 31-28-5.8, means any of the following relationships to an individual by marriage, blood, or adoption:

- (1) Parent.
- (2) Grandparent.
- (3) Brother.
- (4) Sister.
- (5) Stepparent.
- (6) Step-grandparent.
- (7) Step-brother.
- (8) Step-sister.
- (9) First cousin.
- (10) Uncle.
- (11) Aunt.

*As added by P.L.145-2006, SEC.212. Amended by P.L.48-2012, SEC.17.*

**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.

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

**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 31-9-2-113.7****"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 31-9-2-117****"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 for not more than twenty (20) consecutive days to a child:

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

(2) for twenty-four (24) hours a day; and

(3) 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.*

**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 31-9-2-128****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 31-9-2-130.3****"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 31-9-2-132**

#### **"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 31-9-2-134.5**

#### **"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 31-32-11**

### **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 31-33**

### **ARTICLE 33. JUVENILE LAW: REPORTING AND INVESTIGATION OF CHILD ABUSE AND NEGLECT**

#### **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 31-33-3**

### **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.*

## **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 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.

(c) 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.

(d) 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.

(e) 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.

(f) 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.

(g) 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.*

## **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 31-33-13**

### **Repealed**

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

## **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 31-33-24;

(5) the statewide child fatality review committee established under IC 31-33-25; 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.*

#### **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;

(3) a local child fatality review team established under IC 31-33-24;

(4) the statewide child fatality review committee established under IC 31-33-25; or

(5) 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.*

## **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) A police or other law enforcement agency, prosecuting attorney, or coroner in the case of the death of a child who is investigating a report of a child who may be a victim of child abuse or neglect.
- (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 31-33-24-6.

(17) The statewide child fatality review committee established by IC 31-33-25-6.

(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.

*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.*

### **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 31-33-21**

#### **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 Class D 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.*

### **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 31-33-26-2**

### **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 31-33-26-8**

### **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 31-33-27**

### **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;

(C) IC 35-42-4-3;

(D) IC 35-42-4-4;

(E) IC 35-42-4-7;

(F) IC 35-42-4-9;

(G) IC 35-45-4-1;

- (H) IC 35-45-4-2;
  - (I) IC 35-46-1-3; or
  - (J) the law of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in clauses (A) through (I); and
- (2) the child needs care, treatment, or rehabilitation that:
- (A) the child is not receiving; and
  - (B) is unlikely to be provided or accepted without the coercive intervention of the court.
- (b) A child is a child in need of services if, before the child becomes eighteen (18) years of age:
- (1) the child lives in the same household as another child who is the victim of a sex offense under:
    - (A) IC 35-42-4-1;
    - (B) IC 35-42-4-2;
    - (C) IC 35-42-4-3;
    - (D) IC 35-42-4-4;
    - (E) IC 35-42-4-7;
    - (F) IC 35-42-4-9;
    - (G) IC 35-45-4-1;
    - (H) IC 35-45-4-2;
    - (I) IC 35-46-1-3; or
    - (J) the law of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in clauses (A) through (I);
  - (2) the child lives in the same household as the adult who committed the sex offense under subdivision (1) and the sex offense resulted in a conviction or a judgment under IC 31-34-11-2;
  - (3) the child needs care, treatment, or rehabilitation that:
    - (A) the child is not receiving; and
    - (B) is unlikely to be provided or accepted without the coercive intervention of the court;
- and
- (4) a caseworker assigned to provide services to the child:
    - (A) places the child in a program of informal adjustment or other family or rehabilitative services based upon the existence of the circumstances described in subdivisions (1) and (2) and the assigned caseworker subsequently determines further intervention is necessary; or
    - (B) determines that a program of informal adjustment or other family or rehabilitative services is inappropriate.

*As added by P.L.1-1997, SEC.17. Amended by P.L.18-2004, SEC.1.*

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

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

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

- (1) the child's parent, guardian, or custodian allows the child to participate in an obscene

performance (as defined by IC 35-49-2-2 or IC 35-49-3-2); and

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

(A) the child is not receiving; and

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

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

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

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

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

(1) the child's parent, guardian, or custodian allows the child to commit a sex offense prohibited by IC 35-45-4; and

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

(A) the child is not receiving; and

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

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

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

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

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

(1) the child substantially endangers the child's own health or the health of another individual; and

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

(A) the child is not receiving; and

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

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

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

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

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

(1) the child's parent, guardian, or custodian fails to participate in a disciplinary proceeding in connection with the student's improper behavior, as provided for by IC 20-33-8-26, if the behavior of the student has been repeatedly disruptive in the school; and

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

(A) the child is not receiving; and

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

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

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

#### **Missing child**

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

- (1) the child is a missing child (as defined in IC 10-13-5-4); and
- (2) the child needs care, treatment, or rehabilitation that:
  - (A) the child is not receiving; and
  - (B) is unlikely to be provided or accepted without the coercive intervention of the court.

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

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

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

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

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

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

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

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

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

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

- (1) the child is born with:
  - (A) fetal alcohol syndrome; or
  - (B) any amount, including a trace amount, of a controlled substance or a legend drug in the child's body; and
- (2) the child needs care, treatment, or rehabilitation that:
  - (A) the child is not receiving; or
  - (B) is unlikely to be provided or accepted without the coercive intervention of the court.

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

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

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

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

(1) the child:

(A) has an injury;

(B) has abnormal physical or psychological development; or

(C) is at a substantial risk of a life threatening condition;

that arises or is substantially aggravated because the child's mother used alcohol, a controlled substance, or a legend drug during pregnancy; and

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

(A) the child is not receiving; or

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

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

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

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

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

(1) a drug detected in the body of the child under section 10(1) of this chapter or the condition described in section 11(1) of this chapter was caused by a legend drug; and

(2) during pregnancy the child's mother:

(A) possessed a valid prescription for the legend drug;

(B) was not in violation of IC 16-42-19 (the Indiana legend drug act); and

(C) made a good faith attempt to use the legend drug according to the prescription

instructions.

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

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

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

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

(1) a drug detected in the body of the child under section 10(1) of this chapter or the condition described in section 11(1) of this chapter was caused by a controlled substance; and

(2) during pregnancy the child's mother:

(A) possessed a valid prescription for the controlled substance; and

(B) made a good faith attempt to use the controlled substance according to the prescription instructions.

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

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

##### **Exception for failure of parent, guardian, or custodian to provide medical treatment because of religious beliefs; rebuttable presumption; effect of presumption**

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

(1) Prevent a juvenile court from ordering, when the health of a child requires, medical services from a physician licensed to practice medicine in Indiana.

(2) Apply to situations in which the life or health of a child is in serious danger.

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

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

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

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

(1) Limit the right of a parent, guardian, or custodian of a child to use reasonable corporal punishment when disciplining the child.

(2) Limit the lawful practice or teaching of religious beliefs.

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

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

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

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

(1) initiate a court proceeding to:

(A) terminate the parental rights concerning; or

(B) transfer legal custody of; or

(2) require a parent, guardian, or custodian to consent to:

(A) the termination of parental rights; or

(B) transfer of legal custody of;

a child with an emotional, a behavioral, or a mental disorder or a developmental or physical disability who is voluntarily placed out of the home for the purpose of obtaining special treatment or care, solely because the parent, guardian, or custodian is unable to provide the treatment or care. Relinquishment of custody of a child described in this subsection may not be made a condition for receipt of services or care delivered or funded by the department or the 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 31-34-2.3**

#### **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 Class D felony if the alleged perpetrator has a prior unrelated conviction under this section.

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

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

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

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

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

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

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

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

#### **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.*

## **Chapter 20. Dispositional Decrees**

### **IC 31-34-20-1**

#### **Entry of dispositional decree; placement in home or facility outside Indiana; removal of child; award of wardship**

Sec. 1. (a) Subject to this section and section 1.5 of this chapter, if a child is a child in need of services, the juvenile court may enter one (1) or more of the following dispositional decrees:

(1) Order supervision of the child by the department.

(2) Order the child to receive outpatient treatment:

(A) at a social service agency or a psychological, a psychiatric, a medical, or an educational facility; or

(B) from an individual practitioner.

(3) Remove the child from the child's home and authorize the department to place the child in another home or shelter care facility. Placement under this subdivision includes authorization to control and discipline the child.

(4) Award wardship of the child to the department for supervision, care, and placement.

(5) Partially or completely emancipate the child under section 6 of this chapter.

(6) Order the child's parent, guardian, or custodian to complete services recommended by the department and approved by the court under IC 31-34-16, IC 31-34-18, and IC 31-34-19.

(7) Order a person who is a party to refrain from direct or indirect contact with the child.

(8) Order a perpetrator of child abuse or neglect to refrain from returning to the child's residence.

(b) A juvenile court may not place a child in a home or facility that is located outside Indiana unless:

(1) the placement is recommended or approved by the director of the department or the director's designee; or

(2) the juvenile court makes written findings based on clear and convincing evidence that:

(A) the out-of-state placement is appropriate because there is not a comparable facility with adequate services located in Indiana; or

(B) the location of the home or facility is within a distance not greater than fifty (50) miles from the county of residence of the child.

(c) If a dispositional decree under this section:

(1) orders or approves removal of a child from the child's home or awards wardship of the child to the department; and

(2) is the first juvenile court order in the child in need of services proceeding that authorizes or approves removal of the child from the child's parent, guardian, or custodian; the juvenile court shall include in the decree the appropriate findings and conclusions described in IC 31-34-5-3(b) and IC 31-34-5-3(c).

*As added by P.L.1-1997, SEC.17. Amended by P.L.70-2004, SEC.21;*

*P.L.145-2006, SEC.311; P.L.146-2006, SEC.50; P.L.52-2007, SEC.10; P.L.146-2008, SEC.602.*

## **IC 31-34-20-6**

### **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, SEC52; 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 FL. 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 (IC 35-42-2-1(a)(5)) as a Class A felony;

(B) battery (IC 35-42-2-1(a)(4)) as a Class B felony;

(C) battery (IC 35-42-2-1(a)(3)) as a Class C felony;

(D) aggravated battery (IC 35-42-2-1.5);

(E) criminal recklessness (IC 35-42-2-2) as a Class C felony;

(F) neglect of a dependent (IC 35-46-1-4) as a Class B felony; or

(G) a comparable offense described in clauses (A) through (F) in another state, territory, or country;

against a child described in IC 31-35-3-4(2)(B).

(4) The parental rights of a parent with respect to a biological or adoptive sibling of a child who is a child in need of services have been involuntarily terminated by a court under:

- (A)IC 31-35-2 (involuntary termination involving a delinquent child or a child in need of services);
  - (B)IC 31-35-3 (involuntary termination involving an individual convicted of a criminal offense); or
  - (C)any comparable law described in clause (A) or (B) in any other state, territory, or country.
- (5) The child is an abandoned infant, provided that the court:
- (A)has appointed a guardian ad litem or court appointed special advocate for the child; and
  - (B)after receiving a written report and recommendation from the guardian ad litem or court appointed special advocate, and after a hearing, finds that reasonable efforts to locate the child's parents or reunify the child's family would not be in the best interests of the child.

*As added by P.L.35-1998, SEC. 13. Amended by P.L.197-1999, SEC. 5; P.L.133-2000, SEC. 8: P.L.222-2001, SEC.2; P.L.217-2001, SEC. 10; P.L.1-2003, SEC. 78.*

### **IC 31-34-21-5.7**

#### **Permanency plan; requirement; approval; reports and orders not required**

Sec. 5.7. (a) This section applies at any phase of a child in need of services proceeding whenever a court enters a finding that reasonable efforts to reunify or preserve a child's family are not required under section 5.6 of this chapter.

(b) The department shall do the following:

(1)Complete a permanency plan for the child that complies with the requirements of section 7.5 of this chapter.

(2)Seek court approval of the permanency plan under section 7 of this chapter.

(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 FL. 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 post-dispositional 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 post-dispositional 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 non-identifying 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 non-identifying 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);

(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.*

### **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 FL. 1-1997, SEC. 17. Amended by P.L.145-2006, SEC.325; FL. 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

## *Delinquency Laws*

### **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 31-37-6**

#### **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 31-37-6-6**

#### **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 31-37-8-1**

#### **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 31-37-9**

### **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 31-37-11-1**

##### **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 31-37-12-2**

#### **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 31-37-12-9**

#### **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 31-37-13-2**

#### **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 31-37-17**

#### **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.*

### **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 31-37-18**

#### **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 31-37-18-6**

#### **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 31-37-18-9**

#### **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 caretaker, 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.*

## **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.*

### **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 caretaker, 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.*

## *Criminal Law*

### **IC 35-42-4**

#### **Chapter 4. Sex Crimes**

### **IC 35-42-4-0.1**

#### **Repealed**

*(Repealed by P.L.63-2012, SEC.49.)*

### **IC 35-42-4-1**

#### **Rape**

Sec. 1. (a) Except as provided in subsection (b), a person who knowingly or intentionally has sexual intercourse with a member of the opposite sex when:

(1) the other person is compelled by force or imminent threat of force;

(2) the other person is unaware that the sexual intercourse is occurring; or  
(3) the other person is so mentally disabled or deficient that consent to sexual intercourse cannot be given;  
commits rape, a Class B felony.

(b) An offense described in subsection (a) is a Class A felony if:

(1) it is committed by using or threatening the use of deadly force;  
(2) it is committed while armed with a deadly weapon;  
(3) it results in serious bodily injury to a person other than a defendant; or  
(4) the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.

*As added by Acts 1976, P.L.148, SEC.2. Amended by Acts 1977, P.L.340, SEC.36; P.L.320-1983, SEC.23; P.L.16-1984, SEC.19; P.L.297-1989, SEC.1; P.L.31-1998, SEC.3.*

#### **IC 35-42-4-2**

##### **Criminal deviate conduct**

Sec. 2. (a) A person who knowingly or intentionally causes another person to perform or submit to deviate sexual conduct when:

(1) the other person is compelled by force or imminent threat of force;  
(2) the other person is unaware that the conduct is occurring; or  
(3) the other person is so mentally disabled or deficient that consent to the conduct cannot be given;

commits criminal deviate conduct, a Class B felony.

(b) An offense described in subsection (a) is a Class A felony if:

(1) it is committed by using or threatening the use of deadly force;  
(2) it is committed while armed with a deadly weapon;  
(3) it results in serious bodily injury to any person other than a defendant; or  
  
(4) the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.

*As added by Acts 1976, P.L.148, SEC.2. Amended by Acts 1977, P.L.340, SEC.37; P.L.320-1983, SEC.24; P.L.183-1984, SEC.3; P.L.31-1998, SEC.4.*

#### **IC 35-42-4-3**

##### **Child molesting**

Sec. 3. (a) A person who, with a child under fourteen (14) years of age, performs or submits to sexual intercourse or deviate sexual conduct commits child molesting, a Class B felony. However, the offense is a Class A felony if:

(1) it is committed by a person at least twenty-one (21) years of age;

(2) it is committed by using or threatening the use of deadly force or while armed with a deadly weapon;

(3) it results in serious bodily injury; or

(4) the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.

(b) A person who, with a child under fourteen (14) years of age, performs or submits to any fondling or touching, of either the child or the older person, with intent to arouse or to satisfy the sexual desires of either the child or the older person, commits child molesting, a Class C felony. However, the offense is a Class A felony if:

(1) it is committed by using or threatening the use of deadly force;

(2) it is committed while armed with a deadly weapon; or

(3) the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.

(c) It is a defense that the accused person reasonably believed that the child was sixteen (16) years of age or older at the time of the conduct, unless:

(1) the offense is committed by using or threatening the use of deadly force or while armed with a deadly weapon;

(2) the offense results in serious bodily injury; or

(3) the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.

*As added by Acts 1976, P.L.148, SEC.2. Amended by Acts 1977, P.L.340, SEC.38; Acts 1978, P.L.82, SEC.2; Acts 1981, P.L.301, SEC.1; P.L.79-1994, SEC.12; P.L.33-1996, SEC.8; P.L.216-1996, SEC.18; P.L.31-1998, SEC.5; P.L.216-2007, SEC.42.*

#### **IC 35-42-4-4**

##### **Child exploitation; possession of child pornography; exemptions; defenses**

Sec. 4. (a) The following definitions apply throughout this section:

(1) "Disseminate" means to transfer possession for free or for a consideration.

(2) "Matter" has the same meaning as in IC 35-49-1-3.

(3) "Performance" has the same meaning as in IC 35-49-1-7.

(4) "Sexual conduct" means sexual intercourse, deviate sexual conduct, exhibition of the uncovered genitals intended to satisfy or arouse the sexual desires of any person, sadomasochistic abuse, sexual intercourse or deviate sexual conduct with an animal, or any fondling or touching of a child by another person or of another person by a child intended to

arouse or satisfy the sexual desires of either the child or the other person.

(b) A person who knowingly or intentionally:

(1) manages, produces, sponsors, presents, exhibits, photographs, films, videotapes, or creates a digitized image of any performance or incident that includes sexual conduct by a child under eighteen (18) years of age;

(2) disseminates, exhibits to another person, offers to disseminate or exhibit to another person, or sends or brings into Indiana for dissemination or exhibition matter that depicts or describes sexual conduct by a child under eighteen (18) years of age; or

(3) makes available to another person a computer, knowing that the computer's fixed drive or peripheral device contains matter that depicts or describes sexual conduct by a child less than eighteen (18) years of age;

commits child exploitation, a Class C felony.

(c) A person who knowingly or intentionally possesses:

(1) a picture;

(2) a drawing;

(3) a photograph;

(4) a negative image;

(5) undeveloped film;

(6) a motion picture;

(7) a videotape;

(8) a digitized image; or

(9) any pictorial representation;

that depicts or describes sexual conduct by a child who the person knows is less than sixteen (16) years of age or who appears to be less than sixteen (16) years of age, and that lacks serious literary, artistic, political, or scientific value commits possession of child pornography, a Class D felony.

(d) Subsections (b) and (c) do not apply to a bona fide school, museum, or public library that qualifies for certain property tax exemptions under IC 6-1.1-10, or to an employee of such a school, museum, or public library acting within the scope of the employee's employment when the possession of the listed materials is for legitimate scientific or educational purposes.

(e) It is a defense to a prosecution under this section that:

(1) the person is a school employee; and

(2) the acts constituting the elements of the offense were performed solely within the scope of the person's employment as a school employee.

(f) Except as provided in subsection (g), it is a defense to a prosecution under subsection (b)(1), subsection (b)(2), or subsection (c) if all of the following apply:

(1) A cellular telephone, another wireless or cellular communications device, or a social networking web site was used to possess, produce, or disseminate the image.

(2) The defendant is not more than four (4) years older or younger than the person who is depicted in the image or who received the image.

(3) The relationship between the defendant and the person who received the image or who is depicted in the image was a dating relationship or an ongoing personal relationship. For purposes of this subdivision, the term "ongoing personal relationship" does not include a family relationship.

(4) The crime was committed by a person less than twenty-two (22) years of age.

(5) The person receiving the image or who is depicted in the image acquiesced in the defendant's conduct.

(g) The defense to a prosecution described in subsection (f) does not apply if:

(1) the person who receives the image disseminates it to a person other than the person:

(A) who sent the image; or

(B) who is depicted in the image;

(2) the image is of a person other than the person who sent the image or received the image;

or

(3) the dissemination of the image violates:

(A) a protective order to prevent domestic or family violence issued under IC 34-26-5 (or, if the order involved a family or household member, under IC 34-26-2 or IC 34-4-5.1-5 before their repeal);

(B) an ex parte protective order issued under IC 34-26-5 (or, if the order involved a family or household member, an emergency order issued under IC 34-26-2 or IC 34-4-5.1 before their repeal);

(C) a workplace violence restraining order issued under IC 34-26-6;

(D) a no contact order in a dispositional decree issued under IC 31-34-20-1, IC 31-37-19-1, or IC 31-37-5-6 (or IC 31-6-4-15.4 or IC 31-6-4-15.9 before their repeal) or an order issued under IC 31-32-13 (or IC 31-6-7-14 before its repeal) that orders the person to refrain from direct or indirect contact with a child in need of services or a delinquent child;

(E) a no contact order issued as a condition of pretrial release, including release on bail or personal recognizance, or pretrial diversion, and including a no contact order issued under IC 35-33-8-3.6;

(F) a no contact order issued as a condition of probation;

(G) a protective order to prevent domestic or family violence issued under IC 31-15-5 (or IC 31-16-5 or IC 31-1-11.5-8.2 before their repeal);

(H) a protective order to prevent domestic or family violence issued under IC 31-14-16-1 in a paternity action;

(I) a no contact order issued under IC 31-34-25 in a child in need of services proceeding or under IC 31-37-25 in a juvenile delinquency proceeding;

(J) an order issued in another state that is substantially similar to an order described in clauses (A) through (I);

(K) an order that is substantially similar to an order described in clauses (A) through (I) and is issued by an Indian:

(i) tribe;

(ii) band;  
(iii) pueblo;  
(iv) nation; or  
(v) organized group or community, including an Alaska Native village or regional or village corporation as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.);

that is recognized as eligible for the special programs and services provided by the United States to Indians because of their special status as Indians;

(L) an order issued under IC 35-33-8-3.2; or

(M) an order issued under IC 35-38-1-30.

*As added by Acts 1978, P.L.148, SEC.5. Amended by P.L.325-1983, SEC.1; P.L.206-1986, SEC.1; P.L.37-1990, SEC.25; P.L.59-1995, SEC.3; P.L.216-1996, SEC.19; P.L.3-2002, SEC.2; P.L.216-2007, SEC.43; P.L.180-2011, SEC.3; P.L.6-2012, SEC.226.*

### **IC 35-42-4-5**

#### **Vicarious sexual gratification; sexual conduct in presence of a minor**

Sec. 5. (a) A person eighteen (18) years of age or older who knowingly or intentionally directs, aids, induces, or causes a child under the age of sixteen (16) to touch or fondle himself or another child under the age of sixteen (16) with intent to arouse or satisfy the sexual desires of a child or the older person commits vicarious sexual gratification, a Class D felony. However, the offense is:

(1) a Class C felony if a child involved in the offense is under the age of fourteen (14);

(2) a Class B felony if:

(A) the offense is committed by using or threatening the use of deadly force or while armed with a deadly weapon; or

(B) the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge; and

(3) a Class A felony if it results in serious bodily injury.

(b) A person eighteen (18) years of age or older who knowingly or intentionally directs, aids, induces, or causes a child under the age of sixteen (16) to:

(1) engage in sexual intercourse with another child under sixteen (16) years of age;

(2) engage in sexual conduct with an animal other than a human being; or

(3) engage in deviate sexual conduct with another person;

with intent to arouse or satisfy the sexual desires of a child or the older person commits vicarious sexual gratification, a Class C felony. However, the offense is a Class B felony if any child involved in the offense is less than fourteen (14) years of age, and it is a Class A felony if the offense is committed by using or threatening the use of deadly force, if it is committed while armed with a deadly weapon, if it results in serious bodily injury, or if the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as

defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.

(c) A person eighteen (18) years of age or older who knowingly or intentionally:

- (1) engages in sexual intercourse;
- (2) engages in deviate sexual conduct; or
- (3) touches or fondles the person's own body;

in the presence of a child less than fourteen (14) years of age with the intent to arouse or satisfy the sexual desires of the child or the older person commits performing sexual conduct in the presence of a minor, a Class D felony.

*As added by P.L.183-1984, SEC.4. Amended by P.L.79-1994, SEC.13; P.L.31-1998, SEC.6; P.L.118-2002, SEC.1; P.L.123-2003, SEC.1.*

### **IC 35-42-4-6**

#### **Child solicitation**

Sec. 6. (a) As used in this section, "solicit" means to command, authorize, urge, incite, request, or advise an individual:

- (1) in person;
- (2) by telephone;
- (3) in writing;
- (4) by using a computer network (as defined in IC 35-43-2-3(a));
- (5) by advertisement of any kind; or
- (6) by any other means;

to perform an act described in subsection (b) or (c).

(b) A person eighteen (18) years of age or older who knowingly or intentionally solicits a child under fourteen (14) years of age, or an individual the person believes to be a child under fourteen (14) years of age, to engage in:

- (1) sexual intercourse;
- (2) deviate sexual conduct; or
- (3) any fondling or touching intended to arouse or satisfy the sexual desires of either the child or the older person;

commits child solicitation, a Class D felony. However, the offense is a Class C felony if it is committed by using a computer network (as defined in IC 35-43-2-3(a)), and a Class B felony if the person commits the offense by using a computer network (as defined in IC 35-43-2-3(a)) and has a previous unrelated conviction for committing the offense by using a computer network (as defined in IC 35-43-2-3(a)).

(c) A person at least twenty-one (21) years of age who knowingly or intentionally solicits a child at least fourteen (14) years of age but less than sixteen (16) years of age, or an individual the person believes to be a child at least fourteen (14) years of age but less than sixteen (16) years of age, to engage in:

- (1) sexual intercourse;
- (2) deviate sexual conduct; or
- (3) any fondling or touching intended to arouse or satisfy the sexual desires of either the child or the older person;

commits child solicitation, a Class D felony. However, the offense is a Class C felony if it is committed by using a computer network (as defined in IC 35-43-2-3(a)), and a Class B felony if the person commits the offense by using a computer network (as defined in IC 35-43-2-3(a)) and has a previous unrelated conviction for committing the offense by using a computer network (as defined in IC 35-43-2-3(a)).

(d) In a prosecution under this section, including a prosecution for attempted solicitation, the state is not required to prove that the person solicited the child to engage in an act described in subsection (b) or (c) at some immediate time.

*As added by P.L.183-1984, SEC.5. Amended by P.L.11-1994, SEC.16; P.L.79-1994, SEC.14; P.L.216-1996, SEC.20; P.L.118-2002, SEC.2; P.L.124-2005, SEC.1; P.L.216-2007, SEC.44.*

## **IC 35-42-4-7**

### **Child seduction**

Sec. 7. (a) As used in this section, "adoptive parent" has the meaning set forth in IC 31-9-2-6.

(b) As used in this section, "adoptive grandparent" means the parent of an adoptive parent.

(c) As used in this section, "charter school" has the meaning set forth in IC 20-18-2-2.5.

(d) As used in this section, "child care worker" means a person who:

(1) provides care, supervision, or instruction to a child within the scope of the person's employment in a shelter care facility;

(2) is employed by a:

(A) school corporation;

(B) charter school;

(C) nonpublic school; or

(D) special education cooperative;

attended by a child who is the victim of a crime under this chapter; or

(3) is:

(A) affiliated with a:

(i) school corporation;

(ii) charter school;

(iii) nonpublic school; or

(iv) special education cooperative;

attended by a child who is the victim of a crime under this chapter, regardless of how or whether the person is compensated;

(B) in a position of trust in relation to a child who attends the school or cooperative;

(C) engaged in the provision of care or supervision to a child who attends the school or

cooperative; and

(D) at least four (4) years older than the child who is the victim of a crime under this chapter.

The term does not include a student who attends the school or cooperative.

(e) As used in this section, "custodian" means any person who resides with a child and is responsible for the child's welfare.

(f) As used in this section, "military recruiter" means a member of the armed forces of the United States (as defined in IC 20-33-10-2) or the Indiana National Guard whose primary job function, classification, or specialty is recruiting individuals to enlist with the armed forces of the United States or the Indiana National Guard.

(g) As used in this section, "nonpublic school" has the meaning set forth in IC 20-18-2-12.

(h) As used in this section, "school corporation" has the meaning set forth in IC 20-18-2-16.

(i) As used in this section, "special education cooperative" has the meaning set forth in IC 20-35-5-1.

(j) As used in this section, "stepparent" means an individual who is married to a child's custodial or noncustodial parent and is not the child's adoptive parent.

(k) If a person who:

(1) is at least eighteen (18) years of age; and

(2) is:

(A) the:

(i) guardian, adoptive parent, adoptive grandparent, custodian, or stepparent of; or

(ii) child care worker for; or

(B) a military recruiter who is attempting to enlist;

a child at least sixteen (16) years of age but less than eighteen (18) years of age; engages with the child in sexual intercourse, deviate sexual conduct (as defined in IC 35-31.5-2-94), or any fondling or touching with the intent to arouse or satisfy the sexual desires of either the child or the adult, the person commits child seduction, a Class D felony.

*As added by P.L.158-1987, SEC.4. Amended by P.L.1-1997, SEC.148; P.L.71-1998, SEC.5; P.L.228-2001, SEC.5; P.L.161-2003, SEC.10; P.L.1-2005, SEC.228; P.L.125-2009, SEC.7; P.L.114-2012, SEC.138.*

## **IC 35-42-4-8**

### **Sexual battery**

Sec. 8. (a) A person who, with intent to arouse or satisfy the person's own sexual desires or the sexual desires of another person:

(1) touches another person when that person is:

(A) compelled to submit to the touching by force or the imminent threat of force; or

(B) so mentally disabled or deficient that consent to the touching cannot be given; or

(2) touches another person's genitals, pubic area, buttocks, or female breast when that person is unaware that the touching is occurring;

commits sexual battery, a Class D felony.

(b) An offense described in subsection (a) is a Class C felony if:

(1) it is committed by using or threatening the use of deadly force;

(2) it is committed while armed with a deadly weapon; or

(3) the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.

*As added by P.L.322-1987, SEC.2. Amended by P.L.31-1998, SEC.7; P.L.72-2012, SEC.4.*

### **IC 35-42-4-9**

#### **Sexual misconduct with a minor**

Sec. 9. (a) A person at least eighteen (18) years of age who, with a child at least fourteen (14) years of age but less than sixteen (16) years of age, performs or submits to sexual intercourse or deviate sexual conduct commits sexual misconduct with a minor, a Class C felony. However, the offense is:

(1) a Class B felony if it is committed by a person at least twenty-one (21) years of age; and

(2) a Class A felony if it is committed by using or threatening the use of deadly force, if it is committed while armed with a deadly weapon, if it results in serious bodily injury, or if the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.

(b) A person at least eighteen (18) years of age who, with a child at least fourteen (14) years of age but less than sixteen (16) years of age, performs or submits to any fondling or touching, of either the child or the older person, with intent to arouse or to satisfy the sexual desires of either the child or the older person, commits sexual misconduct with a minor, a Class D felony.

However, the offense is:

(1) a Class C felony if it is committed by a person at least twenty-one (21) years of age; and

(2) a Class B felony if it is committed by using or threatening the use of deadly force, while armed with a deadly weapon, or if the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.

(c) It is a defense that the accused person reasonably believed that the child was at least sixteen (16) years of age at the time of the conduct. However, this subsection does not apply to an offense described in subsection (a)(2) or (b)(2).

(d) It is a defense that the child is or has ever been married. However, this subsection does not apply to an offense described in subsection (a)(2) or (b)(2).

(e) It is a defense to a prosecution under this section if all the following apply:

(1) The person is not more than four (4) years older than the victim.

(2) The relationship between the person and the victim was a dating relationship or an ongoing personal relationship. The term "ongoing personal relationship" does not include a family relationship.

(3) The crime:

(A) was not committed by a person who is at least twenty-one (21) years of age;

(B) was not committed by using or threatening the use of deadly force;

(C) was not committed while armed with a deadly weapon;

(D) did not result in serious bodily injury;

(E) was not facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge; and

(F) was not committed by a person having a position of authority or substantial influence over the victim.

(4) The person has not committed another sex offense (as defined in IC 11-8-8-5.2) (including a delinquent act that would be a sex offense if committed by an adult) against any other person.

*As added by P.L.79-1994, SEC.15. Amended by P.L.33-1996, SEC.9; P.L.216-1996, SEC.21; P.L.31-1998, SEC.8; P.L.266-2003, SEC.1; P.L.216-2007, SEC.45.*

### **IC 35-42-4-10**

#### **Unlawful employment near children**

Sec. 10. (a) As used in this section, "offender against children" means a person who is an offender against children under IC 35-42-4-11.

(b) As used in this section, "sexually violent predator" means a person who is a sexually violent predator under IC 35-38-1-7.5.

(c) A sexually violent predator or an offender against children who knowingly or intentionally works for compensation or as a volunteer:

(1) on school property;

(2) at a youth program center; or

(3) at a public park;

commits unlawful employment near children by a sexual predator, a Class D felony. However, the offense is a Class C felony if the person has a prior unrelated conviction based on the person's failure to comply with any requirement imposed on an offender under IC 11-8-8.

*As added by P.L.6-2006, SEC.3; P.L.140-2006, SEC.31 and P.L.173-2006, SEC.31. Amended by P.L.1-2007, SEC.231; P.L.216-2007, SEC.46.*

### **IC 35-42-4-11**

#### **Sex offender residency restrictions**

Sec. 11. (a) As used in this section, and except as provided in subsection (d), "offender against children" means a person required to register as a sex or violent offender under IC 11-8-8

who has been:

(1) found to be a sexually violent predator under IC 35-38-1-7.5; or

(2) convicted of one (1) or more of the following offenses:

(A) Child molesting (IC 35-42-4-3).

(B) Child exploitation (IC 35-42-4-4(b)).

(C) Child solicitation (IC 35-42-4-6).

(D) Child seduction (IC 35-42-4-7).

(E) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age and the person is not the child's parent or guardian.

(F) Attempt to commit or conspiracy to commit an offense listed in clauses (A) through (E).

(G) An offense in another jurisdiction that is substantially similar to an offense described in clauses (A) through (F).

A person is an offender against children by operation of law if the person meets the conditions described in subdivision (1) or (2) at any time.

(b) As used in this section, "reside" means to spend more than three (3) nights in:

(1) a residence; or

(2) if the person does not reside in a residence, a particular location;

in any thirty (30) day period.

(c) An offender against children who knowingly or intentionally:

(1) resides within one thousand (1,000) feet of:

(A) school property, not including property of an institution providing post-secondary education;

(B) a youth program center; or

(C) a public park; or

(2) establishes a residence within one (1) mile of the residence of the victim of the offender's sex offense;

commits a sex offender residency offense, a Class D felony.

(d) This subsection does not apply to an offender against children who has two (2) or more unrelated convictions for an offense described in subsection (a). A person who is an offender against children may petition the court to consider whether the person should no longer be considered an offender against children. The person may file a petition under this subsection not earlier than ten (10) years after the person is released from incarceration, probation, or parole, whichever occurs last. A person may file a petition under this subsection not more than one (1) time per year. A court may dismiss a petition filed under this subsection or conduct a hearing to determine if the person should no longer be considered an offender against children. If the court conducts a hearing, the court shall appoint two (2) psychologists or psychiatrists who have expertise in criminal behavioral disorders to evaluate the person and testify at the hearing. After conducting the hearing and considering the testimony of the two (2) psychologists or psychiatrists, the court shall determine whether the person should no longer be considered an

offender against children. If a court finds that the person should no longer be considered an offender against children, the court shall send notice to the department of correction that the person is no longer considered an offender against children.

*As added by P.L.6-2006, SEC.8. Amended by P.L.140-2006, SEC.32 and P.L.173-2006, SEC.32; P.L.216-2007, SEC.47.*

## **IC 35-42-4-12**

### **Sex offender internet offense**

Sec. 12. (a) This section does not apply to a person to whom all of the following apply:

(1) The person is not more than:

(A) four (4) years older than the victim if the offense was committed after June 30, 2007;

or

(B) five (5) years older than the victim if the offense was committed before July 1, 2007.

(2) The relationship between the person and the victim was a dating relationship or an ongoing personal relationship. The term "ongoing personal relationship" does not include a family relationship.

(3) The crime:

(A) was not committed by a person who is at least twenty-one (21) years of age;

(B) was not committed by using or threatening the use of deadly force;

(C) was not committed while armed with a deadly weapon;

(D) did not result in serious bodily injury;

(E) was not facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge; and

(F) was not committed by a person having a position of authority or substantial influence over the victim.

(b) This section applies only to a person required to register as a sex or violent offender under IC 11-8-8 who has been:

(1) found to be a sexually violent predator under IC 35-38-1-7.5; or

(2) convicted of one (1) or more of the following offenses:

(A) Child molesting (IC 35-42-4-3).

(B) Child exploitation (IC 35-42-4-4(b)).

(C) Possession of child pornography (IC 35-42-4-4(c)).

(D) Vicarious sexual gratification (IC 35-42-4-5(a) or IC 35-42-4-5(b)).

(E) Sexual conduct in the presence of a minor (IC 35-42-4-5(c)).

(F) Child solicitation (IC 35-42-4-6).

(G) Child seduction (IC 35-42-4-7).

(H) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age and the person is not the child's parent or guardian.

(I) Attempt to commit or conspiracy to commit an offense listed in clauses (A) through

(H).

(J) An offense in another jurisdiction that is substantially similar to an offense described in clauses (A) through (H).

(c) As used in this section, "instant messaging or chat room program" means a software program that requires a person to register or create an account, a username, or a password to become a member or registered user of the program and allows two (2) or more members or authorized users to communicate over the Internet in real time using typed text. The term does not include an electronic mail program or message board program.

(d) As used in this section, "social networking web site" means an Internet web site that:

(1) facilitates the social introduction between two (2) or more persons;

(2) requires a person to register or create an account, a username, or a password to become a member of the web site and to communicate with other members;

(3) allows a member to create a web page or a personal profile; and

(4) provides a member with the opportunity to communicate with another person.

The term does not include an electronic mail program or message board program.

(e) A person described in subsection (b) who knowingly or intentionally uses:

(1) a social networking web site; or

(2) an instant messaging or chat room program;

that the offender knows allows a person who is less than eighteen (18) years of age to access or use the web site or program commits a sex offender Internet offense, a Class A misdemeanor.

However, the offense is a Class D felony if the person has a prior unrelated conviction under this section.

(f) It is a defense to a prosecution under this section that the person:

(1) did not know that the web site or program allowed a person who is less than eighteen (18) years of age to access or use the web site or program; and

(2) upon discovering that the web site or program allows a person who is less than eighteen (18) years of age to access or use the web site or program, immediately ceased further use or access of the web site or program.

*As added by P.L.119-2008, SEC.18.*

### **IC 35-42-4-13**

#### **Inappropriate communication with a child**

Sec. 13. (a) This section does not apply to the following:

(1) A parent, guardian, or custodian of a child.

(2) A person who acts with the permission of a child's parent, guardian, or custodian.

(3) A person to whom a child makes a report of abuse or neglect.

(4) A person to whom a child reports medical symptoms that relate to or may relate to sexual activity.

(b) As used in this section, "sexual activity" means sexual intercourse, deviate sexual conduct, or the fondling or touching of the buttocks, genitals, or female breasts.

(c) A person at least twenty-one (21) years of age who knowingly or intentionally

communicates with an individual whom the person believes to be a child less than fourteen (14) years of age concerning sexual activity with the intent to gratify the sexual desires of the person or the individual commits inappropriate communication with a child, a Class B misdemeanor. However, the offense is a Class A misdemeanor if the person commits the offense by using a computer network (as defined in IC 35-43-2-3(a)).

*As added by P.L.119-2008, SEC.19.*

## **IC 35-45-4**

### **Chapter 4. Indecent Acts and Prostitution**

#### **IC 35-45-4-0.1**

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

Sec. 0.1. The enhanced penalty under section 5(b)(2) of this chapter, as added by P.L.7-2005, applies only if at least one (1) of the offenses is committed after June 30, 2005.

*As added by P.L.220-2011, SEC.605. Amended by P.L.63-2012, SEC.59.*

#### **IC 35-45-4-1**

##### **Public indecency**

Sec. 1. (a) A person who knowingly or intentionally, in a public place:

(1) engages in sexual intercourse;

(2) engages in deviate sexual conduct;

(3) appears in a state of nudity with the intent to arouse the sexual desires of the person or another person; or

(4) fondles the person's genitals or the genitals of another person;  
commits public indecency, a Class A misdemeanor.

(b) A person at least eighteen (18) years of age who knowingly or intentionally, in a public place, appears in a state of nudity with the intent to be seen by a child less than sixteen (16) years of age commits public indecency, a Class A misdemeanor.

(c) However, the offense under subsection (a) or subsection (b) is a Class D felony if the person who commits the offense has a prior unrelated conviction:

(1) under subsection (a) or (b); or

(2) in another jurisdiction, including a military court, that is substantially equivalent to an offense described in subsection (a) or (b).

(d) As used in this section, "nudity" means the showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of covered male genitals in a discernibly turgid state.

(e) A person who, in a place other than a public place, with the intent to be seen by persons other than invitees and occupants of that place:

- (1) engages in sexual intercourse;
- (2) engages in deviate sexual conduct;
- (3) fondles the person's genitals or the genitals of another person; or
- (4) appears in a state of nudity;

where the person can be seen by persons other than invitees and occupants of that place commits indecent exposure, a Class C misdemeanor.

*As added by Acts 1976, P.L.148, SEC.5. Amended by Acts 1977, P.L.340, SEC.76; P.L.189-1984, SEC.1; P.L.215-1997, SEC.1; P.L.121-2000, SEC.1; P.L.123-2003, SEC.2.*

### **IC 35-45-4-1.5**

#### **Public nudity**

Sec. 1.5. (a) As used in this section, "nudity" has the meaning set forth in section 1(d) of this chapter.

(b) A person who knowingly or intentionally appears in a public place in a state of nudity commits public nudity, a Class C misdemeanor.

(c) A person who knowingly or intentionally appears in a public place in a state of nudity with the intent to be seen by another person commits a Class B misdemeanor. However, the offense is a Class D felony if the person has a prior unrelated conviction under this subsection or under subsection (d).

(d) A person who knowingly or intentionally appears in a state of nudity:

- (1) in or on school grounds;
- (2) in a public park; or

(3) with the intent to arouse the sexual desires of the person or another person, in a department of natural resources owned or managed property; commits a Class A misdemeanor. However, the offense is a Class D felony if the person has a prior unrelated conviction under this subsection or under subsection (c).

*As added by P.L.123-2003, SEC.3.*

### **IC 35-45-4-2**

#### **Prostitution**

Sec. 2. A person who knowingly or intentionally:

- (1) performs, or offers or agrees to perform, sexual intercourse or deviate sexual conduct; or
- (2) fondles, or offers or agrees to fondle, the genitals of another person;

for money or other property commits prostitution, a Class A misdemeanor. However, the offense is a Class D felony if the person has two (2) prior convictions under this section.

*As added by Acts 1976, P.L.148, SEC.5. Amended by Acts 1977, P.L.340, SEC.77; Acts 1979, P.L.301, SEC.1; P.L.310-1983, SEC.3.*

### **IC 35-45-4-3**

#### **Patronizing a prostitute**

Sec. 3. A person who knowingly or intentionally pays, or offers or agrees to pay, money or other property to another person:

- (1) for having engaged in, or on the understanding that the other person will engage in, sexual intercourse or deviate sexual conduct with the person or with any other person; or
- (2) for having fondled, or on the understanding that the other person will fondle, the genitals of the person or any other person;

commits patronizing a prostitute, a Class A misdemeanor. However, the offense is a Class D felony if the person has two (2) prior convictions under this section.

*As added by Acts 1976, P.L.148, SEC.5. Amended by Acts 1977, P.L.340, SEC.78; Acts 1979, P.L.301, SEC.2; P.L.310-1983, SEC.4.*

### **IC 35-45-4-4**

#### **Promoting prostitution**

Sec. 4. A person who:

- (1) knowingly or intentionally entices or compels another person to become a prostitute;
- (2) knowingly or intentionally procures, or offers or agrees to procure, a person for another person for the purpose of prostitution;
- (3) having control over the use of a place, knowingly or intentionally permits another person to use the place for prostitution;
- (4) receives money or other property from a prostitute, without lawful consideration, knowing it was earned in whole or in part from prostitution; or
- (5) knowingly or intentionally conducts or directs another person to a place for the purpose of prostitution;

commits promoting prostitution, a Class C felony. However, the offense is a Class B felony under subdivision (1) if the person enticed or compelled is under eighteen (18) years of age.

*As added by Acts 1976, P.L.148, SEC.5. Amended by Acts 1977, P.L.340, SEC.79; Acts 1978, P.L.148, SEC.6.*

### **IC 35-45-4-5**

#### **Voyeurism; public voyeurism**

Sec. 5. (a) The following definitions apply throughout this section:

- (1) "Camera" means a camera, a video camera, a device that captures a digital image, or any other type of video recording device.
- (2) "Peep" means any looking of a clandestine, surreptitious, prying, or secretive nature.
- (3) "Private area" means the naked or undergarment clad genitals, pubic area, or buttocks of an individual.

(b) A person:

- (1) who knowingly or intentionally:
  - (A) peeps; or
  - (B) goes upon the land of another with the intent to peep;

into an occupied dwelling of another person; or  
(2) who knowingly or intentionally peeps into an area where an occupant of the area reasonably can be expected to disrobe, including:

- (A) restrooms;
- (B) baths;
- (C) showers; and
- (D) dressing rooms;

without the consent of the other person, commits voyeurism, a Class B misdemeanor.

(c) However, the offense under subsection (b) is a Class D felony if:

- (1) it is knowingly or intentionally committed by means of a camera; or
- (2) the person who commits the offense has a prior unrelated conviction:

(A) under this section; or

(B) in another jurisdiction, including a military court, for an offense that is substantially similar to an offense described in this section.

(d) A person who:

- (1) without the consent of the individual; and
- (2) with intent to peep at the private area of an individual;

peeps at the private area of an individual and records an image by means of a camera commits public voyeurism, a Class A misdemeanor.

(e) The offense under subsection (d) is a Class D felony if the person has a prior unrelated conviction under this section or in another jurisdiction, including a military court, for an offense that is substantially similar to an offense described in this section, or if the person:

- (1) publishes the image;
- (2) makes the image available on the Internet; or
- (3) transmits or disseminates the image to another person.

(f) It is a defense to a prosecution under subsection (d) that the individual deliberately exposed the individual's private area.

*As added by P.L.311-1983, SEC.31. Amended by P.L.301-1995, SEC.1; P.L.215-1997, SEC.2; P.L.7-2005, SEC.1; P.L.75-2011, SEC.1.*

### **IC 35-46-1-3**

#### **Incest**

Sec. 3. (a) A person eighteen (18) years of age or older who engages in sexual intercourse or deviate sexual conduct with another person, when the person knows that the other person is related to the person biologically as a parent, child, grandparent, grandchild, sibling, aunt, uncle, niece, or nephew, commits incest, a Class C felony. However, the offense is a Class B felony if the other person is less than sixteen (16) years of age.

(b) It is a defense that the accused person's otherwise incestuous relation with the other person

was based on their marriage, if it was valid where entered into.

*As added by Acts 1976, P.L.148, SEC.6. Amended by Acts 1977, P.L.340, SEC.86; P.L.158-1987, SEC.5; P.L.79-1994, SEC.16.*

#### **IC 35-46-1-4**

##### **Neglect of a dependent; child selling**

Sec. 4. (a) A person having the care of a dependent, whether assumed voluntarily or because of a legal obligation, who knowingly or intentionally:

- (1) places the dependent in a situation that endangers the dependent's life or health;
- (2) abandons or cruelly confines the dependent;
- (3) deprives the dependent of necessary support; or
- (4) deprives the dependent of education as required by law;

commits neglect of a dependent, a Class D felony.

(b) However, the offense is:

(1) a Class C felony if it is committed under subsection (a)(1), (a)(2), or (a)(3) and:

(A) results in bodily injury; or

(B) is:

(i) committed in a location where a person is violating IC 35-48-4-1 (delivery, financing, or manufacture of cocaine, methamphetamine, or a narcotic drug); or

(ii) the result of a violation of IC 35-48-4-1 (delivery, financing, or manufacture of cocaine, methamphetamine, or a narcotic drug);

(2) a Class B felony if it is committed under subsection (a)(1), (a)(2), or (a)(3) and results in serious bodily injury;

(3) a Class A felony if it is committed under subsection (a)(1), (a)(2), or (a)(3) by a person at least eighteen (18) years of age and results in the death of a dependent who is less than fourteen (14) years of age; and

(4) a Class C felony if it is committed under subsection (a)(2) and consists of cruel confinement or abandonment that:

(A) deprives a dependent of necessary food, water, or sanitary facilities;

(B) consists of confinement in an area not intended for human habitation; or

(C) involves the unlawful use of handcuffs, a rope, a cord, tape, or a similar device to physically restrain a dependent.

(c) It is a defense to a prosecution based on an alleged act under this section that:

(1) the accused person left a dependent child who was, at the time the alleged act occurred, not more than thirty (30) days of age with an emergency medical provider who took custody of the child under IC 31-34-2.5 when:

(A) the prosecution is based solely on the alleged act of leaving the child with the emergency medical services provider; and

(B) the alleged act did not result in bodily injury or serious bodily injury to the child; or

(2) the accused person, in the legitimate practice of the accused person's religious belief, provided treatment by spiritual means through prayer, in lieu of medical care, to the accused person's dependent.

(d) Except for property transferred or received:

(1) under a court order made in connection with a proceeding under IC 31-15, IC 31-16, IC 31-17, or IC 31-35 (or IC 31-1-11.5 or IC 31-6-5 before their repeal); or

(2) under section 9(b) of this chapter;

a person who transfers or receives any property in consideration for the termination of the care, custody, or control of a person's dependent child commits child selling, a Class D felony. *As added by Acts 1976, P.L.148, SEC.6. Amended by Acts 1977, P.L.340, SEC.87; Acts 1978, P.L.144, SEC.8; Acts 1980, P.L.208, SEC.1; Acts 1981, P.L.299, SEC.2; Acts 1981, P.L.301, SEC.3; P.L.1-1997, SEC.151; P.L.197-1999, SEC.6; P.L.133-2000, SEC.10; P.L.46-2004, SEC.1; P.L.26-2006, SEC.2; P.L.15-2007, SEC.1; P.L.109-2007, SEC.1; P.L.6-2012, SEC.227.*

### **IC 35-46-1-5**

#### **Nonsupport of a dependent child**

Sec. 5. (a) A person who knowingly or intentionally fails to provide support to the person's dependent child commits nonsupport of a child, a Class D felony. However, the offense is a Class C felony if the total amount of unpaid support that is due and owing for one (1) or more children is at least fifteen thousand dollars (\$15,000).

(b) It is a defense that the child had abandoned the home of his family without the consent of his parent or on the order of a court, but it is not a defense that the child had abandoned the home of his family if the cause of the child's leaving was the fault of his parent.

(c) It is a defense that the accused person, in the legitimate practice of his religious belief, provided treatment by spiritual means through prayer, in lieu of medical care, to his dependent child.

(d) It is a defense that the accused person was unable to provide support.

*As added by Acts 1976, P.L.148, SEC.6. Amended by Acts 1977, P.L.340, SEC.88; Acts 1978, P.L.144, SEC.9; P.L.213-1996, SEC.4; P.L.123-2001, SEC.4.*

### **IC 35-46-1-8**

#### **Contributing to the delinquency of a minor**

Sec. 8. (a) A person at least eighteen (18) years of age who knowingly or intentionally encourages, aids, induces, or causes a person less than eighteen (18) years of age to commit an act of delinquency (as defined by IC 31-37-1 or IC 31-37-2) commits contributing to delinquency, a Class A misdemeanor.

(b) However, the offense described in subsection (a) is a Class C felony:

(1) if:

(A) the person committing the offense is at least twenty-one (21) years of age and knowingly or intentionally furnishes:

(i) an alcoholic beverage to a person less than eighteen (18) years of age in violation of IC 7.1-5-7-8 when the person committing the offense knew or reasonably should have known that the person furnished the alcoholic beverage was less than eighteen (18) years of age; or

(ii) a controlled substance (as defined in IC 35-48-1-9) or a drug (as defined in IC 9-13-2-49.1) in violation of Indiana law; and

(B) the consumption, ingestion, or use of the alcoholic beverage, controlled substance, or drug is the proximate cause of the death of any person; or

(2) if the person committing the offense knowingly or intentionally encourages, aids, induces, or causes a person less than eighteen (18) years of age to commit an act that would be a felony if committed by an adult under any of the following:

(A) IC 35-48-4-1.

(B) IC 35-48-4-1.1.

(C) IC 35-48-4-2.

- (D) IC 35-48-4-3.
- (E) IC 35-48-4-4.
- (F) IC 35-48-4-4.5.
- (G) IC 35-48-4-4.6.
- (H) IC 35-48-4-5.

*As added by Acts 1976, P.L.148, SEC.6. Amended by Acts 1977, P.L.340, SEC.91; Acts 1978, P.L.144, SEC.12; Acts 1979, P.L.276, SEC.58; P.L.216-1996, SEC.24; P.L.1-1997, SEC.152; P.L.46-2004, SEC.2; P.L.2-2005, SEC.126; P.L.1-2006, SEC.533; P.L.151-2006, SEC.18.*

### ***Guardianship Laws***

#### **IC 29-3-1-6**

##### **"Guardian"**

Sec. 6. "Guardian" means a person who is a fiduciary and is appointed by a court to be a guardian or conservator responsible as the court may direct for the person or the property of an incapacitated person or a minor. The term includes a temporary guardian, a limited guardian, and a successor guardian but excludes one who is only a guardian ad litem. The terms guardian and conservator are interchangeable.

*As added by P.L.169-1988, SEC.1. Amended by P.L.33-1989, SEC.58.*