

IC 31-37-12

Chapter 12. Initial Hearing and Issuance of Summons

IC 31-37-12-1

Application of chapter

Sec. 1. This chapter applies only to a child alleged to be a delinquent child.

As added by P.L.1-1997, SEC.20.

IC 31-37-12-2

Initial hearing; service of copy of petition and summons; notice of initial hearing

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

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

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

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

(d) The prosecuting attorney or the probation department of the juvenile court shall provide notice of the time, place, and purpose of the initial hearing scheduled or held under this section to each foster parent or other caretaker with whom the child has been placed for temporary care under IC 31-37-5 or IC 31-37-7. The court shall:

- (1) provide a:
 - (A) person for whom a summons is required to be issued under subsection (b); and
 - (B) person required to be notified under this subsection; an opportunity to be heard; and
- (2) allow a person described in subdivision (1) to make recommendations to the court;

at the initial hearing.

As added by P.L.1-1997, SEC.20. Amended by P.L.138-2007, SEC.82.

IC 31-37-12-3

Representation by counsel; waiver; appointment

Sec. 3. (a) Before complying with the other requirements of this section, the juvenile court shall first determine whether counsel has been:

- (1) waived under IC 31-32-5; or
- (2) previously obtained.

(b) If counsel has not been waived or previously obtained, the juvenile court shall appoint counsel under IC 31-32-4.

As added by P.L.1-1997, SEC.20.

IC 31-37-12-4

Waiver of jurisdiction

Sec. 4. The court shall next determine whether the prosecuting attorney intends to seek a waiver of jurisdiction under IC 31-30-3. If a waiver is sought, the court:

- (1) may not accept an admission or a denial of the allegations from the child under section 9 of this chapter; and
- (2) shall do the following:
 - (A) Schedule a waiver hearing.
 - (B) Advise the child according to section 5 of this chapter.

As added by P.L.1-1997, SEC.20.

IC 31-37-12-5**Duty to inform child and parent, guardian, or custodian regarding nature of allegations, child's legal rights, jurisdiction, and dispositional alternatives**

Sec. 5. The juvenile court shall inform the child and the child's parent, guardian, or custodian, if the person is present, of the following:

- (1) The nature of the allegations against the child.
- (2) The child's right to the following:
 - (A) Be represented by counsel.
 - (B) Have a speedy trial.
 - (C) Confront witnesses against the child.
 - (D) Cross-examine witnesses against the child.
 - (E) Obtain witnesses or tangible evidence by compulsory process.
 - (F) Introduce evidence on the child's own behalf.
 - (G) Refrain from testifying against himself or herself.
 - (H) Have the state prove beyond a reasonable doubt that the child committed the delinquent act charged.
- (3) The possibility of waiver to a court having criminal jurisdiction.
- (4) The dispositional alternatives available to the juvenile court if the child is adjudicated a delinquent child.

As added by P.L.1-1997, SEC.20.

IC 31-37-12-6**Duty to inform parent or guardian of estate of effect of adjudication**

Sec. 6. The juvenile court shall inform the parent or guardian of the estate of the following if a child is adjudicated a delinquent child:

- (1) The parent, guardian, or custodian of the child may be required to participate in a program of care, treatment, or rehabilitation for the child.
- (2) The parent or guardian may be held financially responsible for services provided for the child or the parent or guardian.
- (3) The parent, guardian, or custodian of the child may controvert:
 - (A) an allegation made at the dispositional or other hearing concerning the participation of the parent, guardian, or

custodian; or

(B) an allegation concerning the financial responsibility of the parent, guardian, or custodian for services that would be provided.

As added by P.L.1-1997, SEC.20.

IC 31-37-12-7

Child's admission or denial of allegations

Sec. 7. (a) If:

- (1) the prosecuting attorney has not requested that the juvenile court waive the court's jurisdiction; or
- (2) a waiver has been requested and denied;

the juvenile court shall determine whether a child admits or denies the allegations of a petition.

(b) A failure to respond constitutes a denial.

As added by P.L.1-1997, SEC.20.

IC 31-37-12-8

Procedure following admission of allegations by child

Sec. 8. If a child admits the allegations of a petition, the juvenile court shall do the following:

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

As added by P.L.1-1997, SEC.20.

IC 31-37-12-9

Dispositional hearing; factfinding hearing; consent

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

(b) If a child denies the allegations, the juvenile court may hold the factfinding hearing immediately after the initial hearing.

(c) Except as provided in section 10 of this chapter:

- (1) the child;
- (2) the child's:
 - (A) counsel;
 - (B) guardian ad litem;
 - (C) parent;
 - (D) guardian; or
 - (E) custodian; and

(3) the person representing the interests of the state; must consent to the timing of the hearing.

As added by P.L.1-1997, SEC.20.

IC 31-37-12-10

Consent by emancipated child

Sec. 10. If a child is emancipated:

- (1) under IC 31-37-19-27;
- (2) by virtue of having married; or
- (3) in accordance with the laws of another state or jurisdiction;

it is only necessary for the child to consent to the factfinding hearing or the dispositional hearing described in section 9 of this chapter.
As added by P.L.1-1997, SEC.20.