

## **IC 31-37-22**

### **Chapter 22. Modification of Dispositional Decrees**

#### **IC 31-37-22-1**

##### **Motion for modification**

Sec. 1. While the juvenile court retains jurisdiction under IC 31-30-2, the juvenile court may modify any dispositional decree:

- (1) upon the juvenile court's own motion;
- (2) upon the motion of:
  - (A) the child;
  - (B) the child's parent, guardian, custodian, or guardian ad litem;
  - (C) the probation officer; or
  - (D) the prosecuting attorney; or
- (3) upon the motion of any person providing services to the child or to the child's parent, guardian, or custodian under a decree of the court.

*As added by P.L.1-1997, SEC.20. Amended by P.L.145-2006, SEC.352; P.L.146-2008, SEC.659.*

#### **IC 31-37-22-2**

##### **Award of guardianship of child to department of correction**

Sec. 2. If a child has been in the custody of the department of correction under the juvenile court's original dispositional decree, the juvenile court may not award guardianship of the child back to the department unless the juvenile court holds a hearing and finds that the child violated a modified dispositional decree.

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

#### **IC 31-37-22-3**

##### **Notice and hearing requirements; temporary order for emergency change in child's residence**

Sec. 3. (a) If the motion requests an emergency change in the child's residence, the juvenile court may issue a temporary order. However, the probation officer shall then give notice to the persons affected and the juvenile court shall hold a hearing on the question if requested.

(b) If the motion requests any other modification, the probation officer shall give notice to the persons affected and the juvenile court shall hold a hearing on the question.

(c) The procedures specified in IC 31-37-17-1.4 and IC 31-37-18-9 apply to any modification of a dispositional decree under this chapter that requires or would require payment by the department, under IC 31-40-1, for any of the costs of programs, placements, or services for or on behalf of the child.

*As added by P.L.1-1997, SEC.20. Amended by P.L.146-2008, SEC.660.*

#### **IC 31-37-22-4**

##### **Notification of report; notice**

Sec. 4. If a hearing is required, IC 31-37-17 governs the preparation and use of a modification report. The report shall be prepared if the state or any person other than the child or the child's parent, guardian, guardian ad litem, or custodian is requesting the modification. Notice of any hearing under this chapter shall be given in accordance with IC 31-37-18-1.3.

*As added by P.L.1-1997, SEC.20. Amended by P.L.138-2007, SEC.89.*

#### **IC 31-37-22-4.5**

##### **Placement of delinquent child in out-of-home residence or facility; case plan**

Sec. 4.5. (a) This section applies to a delinquent child if the child is placed in an out-of-home residence or facility that is not a secure detention facility.

(b) The probation department, after negotiating with the child's parent, guardian, or custodian, shall complete the child's case plan not later than sixty (60) days after the date of the child's first placement that the probation department requests to be paid for by the department.

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

(d) A child's case plan must be in a form prescribed by the department that meets the specifications set by 45 CFR 1356.21, as amended. The case plan must include a description and discussion of the following:

- (1) A permanency plan for the child and an estimated date for achieving the goal of the plan.
- (2) The appropriate placement for the child based on the child's special needs and best interests.
- (3) The least restrictive family like setting that is close to the home of the child's parent, custodian, or guardian if out-of-home placement is implemented or recommended, including consideration of possible placement with any suitable and willing relative 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.*

#### **IC 31-37-22-5**

##### **Placement of child in public or private facility for children**

Sec. 5. If:

(1) a child is placed in a shelter care facility or other place of residence as part of a court order with respect to a delinquent act under IC 31-37-2-2;

(2) the child received a written warning of the consequences of a violation of the placement at the hearing during which the placement was ordered;

(3) the issuance of the warning was reflected in the records of the hearing;

(4) the child is not held in a juvenile detention facility for more than twenty-four (24) hours, excluding Saturdays, Sundays, and legal holidays, before the hearing at which it is determined that the child violated that part of the order concerning the child's placement in a shelter care facility or other place of residence; and

(5) the child's mental and physical condition may be endangered if the child is not placed in a secure facility;

the juvenile court may modify its disposition order with respect to the delinquent act and place the child in a public or private facility for children under section 7 of this chapter.

*As added by P.L.1-1997, SEC.20. Amended by P.L.146-2008, SEC.661.*

#### **IC 31-37-22-6**

##### **Placement of child for noncompliance concerning compulsory**

**school attendance**

Sec. 6. If:

- (1) a child fails to comply with IC 20-33-2 concerning compulsory school attendance as part of a court order with respect to a delinquent act under IC 31-37-2-3 (or IC 31-6-4-1(a)(3) before its repeal);
- (2) the child received a written warning of the consequences of a violation of the court order;
- (3) the issuance of the warning was reflected in the records of the hearing;
- (4) the child is not held in a juvenile detention facility for more than twenty-four (24) hours, excluding Saturdays, Sundays, and legal holidays, before the hearing at which it is determined that the child violated that part of the order concerning the child's school attendance; and
- (5) the child's mental and physical condition may be endangered if the child is not placed in a secure facility;

the juvenile court may modify its disposition order with respect to the delinquent act and place the child in a public or private facility for children under section 7 of this chapter.

*As added by P.L.1-1997, SEC.20. Amended by P.L.1-2005, SEC.214.*

**IC 31-37-22-7**

**Alternative facilities for placement**

Sec. 7. (a) If the juvenile court modifies its disposition order under section 5 or 6 of this chapter, the court may order the child placed under one (1) of the following alternatives:

- (1) In a nonlocal secure private facility licensed under the laws of any state. Placement under this alternative includes authorization to control and discipline the child.
- (2) In a local secure private facility licensed under Indiana law. Placement under this alternative includes authorization to control and discipline the child.
- (3) In a local secure public facility.
- (4) In a local alternative facility approved by the juvenile court.
- (5) As a ward of the department of correction for housing in any correctional facility for children. Wardship under this alternative does not include the right to consent to the child's adoption. However, without a determination of unavailable housing by the department of correction, a child found to be subject to section 5 or 6 of this chapter and placed in a secure facility of the department of correction may not be housed with any child found to be delinquent under any other provision of this article.

(b) If the juvenile court places a child under subsection (a)(3) or (a)(4):

- (1) the length of the placement may not exceed thirty (30) days; and
- (2) the juvenile court shall order specific treatment of the child designated to eliminate the child's disobedience of the court's

order of placement.

(c) The juvenile court shall retain jurisdiction over any placement under this section (or IC 31-6-7-16(d) before its repeal) and shall review each placement every three (3) months to determine whether placement in a secure facility remains appropriate.

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

#### **IC 31-37-22-8**

##### **Description by local alternative facility seeking court approval**

Sec. 8. A local alternative facility seeking the approval of the juvenile court shall provide the court with a description of the following:

- (1) The facility's location and facilities.
- (2) The facility's staff, including personnel qualifications.
- (3) The maximum number of children who may be housed in the facility, including a ratio of staff to children when the facility is at maximum capacity.
- (4) Funding sources.
- (5) Programs that will be provided for children who are housed in the facility.

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

#### **IC 31-37-22-9**

##### **Copy of modified dispositional order for former Medicaid child recipient by court to division of family resources**

Sec. 9. If:

- (1) a juvenile court modifies its disposition order under this chapter;
- (2) the child named in the order received Medicaid before disposition as indicated by the predispositional report; and
- (3) the juvenile court previously placed or intends to place the child in:
  - (A) a juvenile detention facility; or
  - (B) a secure facility, not including a facility licensed as a child caring institution under IC 31-27;

the court shall immediately provide a copy of the modified dispositional decree to the division of family resources.

*As added by P.L.114-2009, SEC.4.*