

IC 31-37-5

Chapter 5. Child Taken Into Custody

IC 31-37-5-1

Application of chapter

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

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

IC 31-37-5-2

Taking child to designated place pending detention hearing

Sec. 2. If a child is taken into custody under an order of the court, the law enforcement officer shall take the child to a place designated in the order to await a detention hearing.

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

IC 31-37-5-3

Release or detention of child taken into custody without court order

Sec. 3. (a) If a child is not taken into custody under an order of the court, the law enforcement officer may release the child or may release the child to the child's parent, guardian, or custodian upon the person's written promise to bring the child before the juvenile court at a time specified. Subject to subsection (c), the law enforcement officer may place the child in detention if the law enforcement officer reasonably believes that:

- (1) the child is unlikely to appear before the juvenile court for subsequent proceedings;
- (2) the child has committed an act that would be murder or a Class A or Class B felony if committed by an adult;
- (3) detention is essential to protect the child or the community;
- (4) the parent, guardian, or custodian:
 - (A) cannot be located; or
 - (B) is unable or unwilling to take custody of the child; or
- (5) the child has a reasonable basis for requesting that the child not be released.

(b) If a child is detained for a reason specified in subsection (a)(4) or (a)(5), the child shall be detained under IC 31-37-7-1.

(c) Unless a law enforcement officer determines that detention is essential to protect a child or the community, the law enforcement officer who detains a child for a violation of the curfew law under IC 31-37-3 shall make a good faith effort to release the child to the child's parent, guardian, or custodian within a reasonable time after the child is detained.

As added by P.L.1-1997, SEC.20. Amended by P.L.79-2001, SEC.3.

IC 31-37-5-4

Detention at designated place; notice

Sec. 4. If the child is not released, the child shall be delivered to a place designated by the court. The law enforcement officer shall

immediately notify the child's parent, guardian, or custodian and an intake officer of the following:

- (1) Where the child is being held.
- (2) The reasons for the child's detention.

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

IC 31-37-5-5

Investigation, release, or detention by intake officer of child taken into custody without court order

Sec. 5. (a) If the child was not taken into custody under an order of the court, an intake officer shall investigate the reasons for the child's detention. The intake officer shall release the child to the child's parent, guardian, or custodian upon the person's written promise to bring the child before the juvenile court at a time specified. However, the intake officer may place the child in detention if the intake officer reasonably believes that the child is a delinquent child and that:

- (1) the child is unlikely to appear before the juvenile court for subsequent proceedings;
- (2) the child has committed an act that would be murder or a Class A or Class B felony if committed by an adult;
- (3) detention is essential to protect the child or the community;
- (4) the parent, guardian, or custodian:
 - (A) cannot be located; or
 - (B) is unable or unwilling to take custody of the child; or
- (5) the child has a reasonable basis for requesting that the child not be released.

(b) If a child is detained for a reason specified in subsection (a)(4) or (a)(5), the child shall be detained under IC 31-37-7-1.

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

IC 31-37-5-6

Detention hearing

Sec. 6. If a child taken into custody is not released, a detention hearing must be held in accordance with IC 31-37-6-2.

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

IC 31-37-5-7

Suspension of child's driving privileges; reinstatement; probationary privileges; removal from record

Sec. 7. (a) If a child is alleged to have committed an act that would be an offense under IC 9-30-5 if committed by an adult, a juvenile court shall recommend the immediate suspension of the child's driving privileges as provided in IC 9-30-5. If a court recommends suspension of a child's driving privileges under this section, the bureau of motor vehicles shall comply with the recommendation of suspension as provided in IC 9-30-6-12.

(b) If a court recommends suspension of a child's driving privileges under this section, the court may order the bureau of motor vehicles to reinstate the child's driving privileges as provided in

IC 9-30-6-11.

(c) If a juvenile court orders the bureau of motor vehicles to reinstate a child's driving privileges under subsection (b), the bureau shall comply with the order. Unless the order for reinstatement is issued as provided under IC 9-30-6-11(a)(2) because of a violation of the speedy trial provisions applicable to the juvenile court, the bureau shall also do the following:

(1) Remove any record of the suspension from the bureau's record keeping system.

(2) Reinstate the privileges without cost to the person.

(d) If a juvenile court orders a suspension under this section and the child did not refuse to submit to a chemical test offered under IC 9-30-6-2 during the investigation of the delinquent act that would have been an offense under IC 9-30-5 if committed by an adult, the juvenile court may grant the child probationary driving privileges for one hundred eighty (180) days in conformity with the procedures in IC 9-30-5-12. The standards and procedures in IC 9-30-5-11 and IC 9-30-5-13 apply to an action under this subsection.

(e) If a proceeding described in this section is terminated in favor of the child and the child did not refuse to submit to a chemical test offered as provided under IC 9-30-6-2 during the investigation of the delinquent act that would be an offense under IC 9-30-5 if committed by an adult, the bureau shall remove any record of the suspension, including the reasons for the suspension, from the child's official driving record.

(f) The bureau of motor vehicles may adopt rules under IC 4-22-2 to carry out this section.

As added by P.L.32-2000, SEC.20.

IC 31-37-5-8

Juvenile court submission of proposed service, program, or placement to department; approval or disapproval by department; emergencies; entry of order by juvenile court; appeal by department; expenses

Sec. 8. (a) This section applies to services and programs provided to or on behalf of a child alleged to be a delinquent child at any time before:

(1) entry of a dispositional decree under IC 31-37-19; or

(2) approval of a program of informal adjustment under IC 31-37-9.

(b) Except as provided in subsection (c), before a juvenile court orders or approves a service, a program, or an out-of-home placement for a child:

(1) that is recommended by a probation officer or proposed by the juvenile court;

(2) for which the costs would be payable by the department under IC 31-40-1-2; and

(3) that has not been approved by the department;

the juvenile court shall submit the proposed service, program, or placement to the department for consideration. The department shall,

not later than three (3) business days after receipt of the recommendation or proposal, submit to the court a report stating whether the department approves or disapproves the proposed service, program, or placement.

(c) If the juvenile court makes written findings and concludes that an emergency exists requiring an immediate out-of-home placement to protect the health and welfare of the child, the juvenile court may order or authorize implementation of the placement without first complying with the procedure specified in this section. After entry of an order under this subsection, the juvenile court shall submit a copy of the order to the department for consideration under this section of possible modification or alternatives to the placement and any related services or programs included in the order.

(d) If the department approves the service, program, or placement recommended by the probation officer or juvenile court, the juvenile court may enter an appropriate order to implement the approved proposal. If the department does not approve a service, program, or placement recommended by the probation officer or proposed by the juvenile court, the department may recommend an alternative service, program, or placement for the child.

(e) The juvenile court shall accept the recommendations of the department regarding any predispositional services, programs, or placement for the child unless the juvenile court finds a recommendation is:

- (1) unreasonable, based on the facts and circumstances of the case; or
- (2) contrary to the welfare and best interests of the child.

(f) If the juvenile court does not accept the recommendations of the department in the report submitted under subsection (b), the court:

- (1) may enter an order that:
 - (A) requires the department to provide a specified service, program, or placement, until entry of a dispositional decree or until the order is otherwise modified or terminated; and
 - (B) specifically states the reasons why the juvenile court is not accepting the recommendations of the department, including the juvenile court's findings under subsection (e); and
- (2) must incorporate all documents referenced in the report submitted to the probation officer or to the court by the department into the order so that the documents are part of the record for any appeal the department may pursue under subsection (g).

(g) If the juvenile court enters its findings and order under subsections (e) and (f), the department may appeal the juvenile court's order under any available procedure provided by the Indiana Rules of Trial Procedure or the Indiana Rules of Appellate Procedure to allow any disputes arising under this section to be decided in an expeditious manner.

(h) If the department prevails on an appeal initiated under

subsection (g), the department shall pay the following costs and expenses incurred by or on behalf of the child before the date of the final decision:

(1) Any programs or services implemented during the appeal, other than the cost of an out-of-home placement ordered by the juvenile court.

(2) Any out-of-home placement ordered by the juvenile court and implemented after entry of the court order of placement, if the court has made written findings that the placement is an emergency required to protect the health and welfare of the child.

If the court has not made written findings that the placement is an emergency, the county in which the juvenile court is located is responsible for payment of all costs of the placement, including the cost of services and programs provided by the home or facility where the child was placed.

As added by P.L.146-2008, SEC.623. Amended by P.L.131-2009, SEC.67.