

IC 31-37-8

Chapter 8. Information About Delinquent Children, Investigation, and Preliminary Inquiry

IC 31-37-8-1

Receipt and forwarding of information concerning delinquent child; preliminary inquiry

Sec. 1. (a) A person may give an intake officer or a prosecuting attorney written information indicating that a child is a delinquent child.

(b) If the information is given to the intake officer, the intake officer shall immediately forward the information to the prosecuting attorney.

(c) If the prosecuting attorney has reason to believe the child has committed a delinquent act, the prosecuting attorney shall instruct the intake officer to make a preliminary inquiry to determine whether the interests of the public or of the child require further action.

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

IC 31-37-8-2

Contents of preliminary inquiry

Sec. 2. A preliminary inquiry is an informal investigation into the facts and circumstances reported to the court. Whenever practicable, the preliminary inquiry should include the following information:

- (1) The child's background.
- (2) The child's current status.
- (3) The child's school performance.
- (4) If the child has been detained:
 - (A) efforts made to prevent removal of the child from the child's home, including the identification of any emergency situation that prevented reasonable efforts to avoid removal;
 - (B) whether it is in the best interests of the child to be removed from the home environment; and
 - (C) whether remaining in the home would be contrary to the health and welfare of the child.

As added by P.L.1-1997, SEC.20. Amended by P.L.146-2008, SEC.626.

IC 31-37-8-3

Notice of conduct and nature of preliminary inquiry

Sec. 3. If a parent, guardian, or custodian of a child seeks information concerning a preliminary inquiry, the person shall be notified:

- (1) whether a preliminary inquiry is being made; and
- (2) if so, the nature of the inquiry.

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

IC 31-37-8-4

Advisement required for child interview

Sec. 4. If a child interview occurs, the intake officer shall advise

the child and the child's parent, guardian, or custodian of the following:

- (1) The nature of the allegations against the child.
- (2) That the intake officer is conducting a preliminary inquiry to assist the prosecuting attorney in determining whether a petition should be filed alleging that the child is a delinquent child.
- (3) That the intake officer will recommend whether to:
 - (A) file a petition;
 - (B) informally adjust the case;
 - (C) refer the child to another agency; or
 - (D) dismiss the case.
- (4) That the child has a right to remain silent.
- (5) That anything the child says may be used against the child in subsequent judicial proceedings.
- (6) That the child has a right to consult with an attorney before the child talks with the intake officer.
- (7) That the child has a right to stop at any time and consult with an attorney.
- (8) That the child has a right to stop talking with the intake officer at any time.
- (9) That if the child cannot afford an attorney, the court will appoint an attorney for the child.

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

IC 31-37-8-4.5

Privileged communication to a mental health evaluator; exceptions

Sec. 4.5. (a) This section applies only to a court ordered or voluntary mental health:

- (1) screening;
- (2) assessment;
- (3) evaluation; or
- (4) treatment;

provided by or under the direction of an evaluator, as defined in IC 31-9-2-43.8, in conjunction with proceedings under this chapter.

(b) Notwithstanding section 4(5) of this chapter and except as provided in subsection (d) and except for purposes of:

- (1) a probation revocation proceeding; or
- (2) a modification of a dispositional decree under IC 31-37-22;

a statement communicated to an evaluator in the evaluator's official capacity may not be admitted as evidence against the child on the issue of whether the child committed a delinquent act or a crime.

(c) This section does not affect the admissibility of evidence when a juvenile interposes the defense of insanity.

(d) This section does not affect a disclosure or reporting requirement in effect on July 1, 2007, under statute or in case law regarding a statement that:

- (1) relates directly to the facts or immediate circumstances of a homicide; or
- (2) reveals that the child may intend to commit a crime.

As added by P.L.120-2007, SEC.4.

IC 31-37-8-5

Provision of copies of preliminary inquiry and recommendation

Sec. 5. (a) The intake officer shall do the following:

- (1) Send the prosecuting attorney a copy of the preliminary inquiry.
- (2) Recommend whether to:
 - (A) file a petition;
 - (B) informally adjust the case;
 - (C) refer the child to another agency; or
 - (D) dismiss the case.

(b) The prosecuting attorney and the court may agree to alter the procedure described in subsection (a).

As added by P.L.1-1997, SEC.20. Amended by P.L.145-2006, SEC.337; P.L.146-2008, SEC.627.

IC 31-37-8-6

Decision whether to file petition

Sec. 6. The prosecuting attorney shall decide whether to file a petition.

As added by P.L.1-1997, SEC.20. Amended by P.L.146-2008, SEC.628.