

IC 31-34-5

Chapter 5. Detention Hearing

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 31-34-5-1.5

Hearing after emergency medical services provider takes custody of a child; notification; petition alleging a child is a child in need of services

Sec. 1.5. (a) This section applies to a child taken into custody under IC 31-34-2.5.

(b) The juvenile court shall hold a detention hearing after an emergency medical services provider takes custody of a child under IC 31-34-2.5. The court shall hold the detention hearing not later than forty-eight (48) hours after the emergency medical services provider takes the child into custody, excluding Saturdays, Sundays, and any day on which a legal holiday is observed for state employees as provided under IC 1-1-9. A petition alleging that a child described in subsection (a) is a child in need of services shall be filed before the detention hearing is held for the child.

(c) The department may notify the emergency medical services provider that has taken emergency custody of a child under IC 31-34-2.5 of the detention hearing. The emergency medical services provider may be heard at the detention hearing.

(d) The department shall notify each foster parent or other

caretaker with whom the child has been temporarily placed under IC 31-34-2.5 of the detention hearing. The court shall:

- (1) provide a person who is 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 detention hearing.

As added by P.L.217-2001, SEC.7. Amended by P.L.145-2006, SEC.292; P.L.138-2007, SEC.69; P.L.131-2009, SEC.61.

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 31-34-5-3

Release; findings required for detention order; approval of services, programs, and placement; court order; appeal; payment of costs

Sec. 3. (a) The juvenile court shall release the child to the child's parent, guardian, or custodian. However, the court may order the child detained if the court makes written findings of fact upon the record of probable cause to believe that the child is a child in need of services and that:

- (1) detention is necessary to protect the child;
- (2) the child is unlikely to appear before the juvenile court for subsequent proceedings;
- (3) the child has a reasonable basis for requesting that the child not be released;
- (4) the parent, guardian, or custodian:
 - (A) cannot be located; or
 - (B) is unable or unwilling to take custody of the child; or
- (5) consideration for the safety of the child precludes the use of family services to prevent removal of the child.

(b) The juvenile court shall include in any order approving or requiring detention of a child all findings and conclusions required under:

(1) 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 child in need of services for assistance under Title IV-E or any other federal law.

(c) 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 child in need of services constitutes compliance with subsection (b).

As added by P.L.1-1997, SEC.17. Amended by P.L.146-2008, SEC.580.

IC 31-34-5-3.5

Release of a child; conditions

Sec. 3.5. If the juvenile court releases a child to the child's parent, guardian, or custodian under section 3 of this chapter, the court may impose conditions on the child or the child's parent, guardian, or custodian to ensure the safety of the child's physical or mental health.

As added by P.L.146-2006, SEC.45.

IC 31-34-5-4

Order to appear for additional detention hearing

Sec. 4. Upon the juvenile court's own motion or upon the motion of the person representing the interests of the state, the parent, guardian, or custodian of a child who has been released may be ordered to appear with the child for an additional detention hearing.

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

IC 31-34-5-5

Petition for additional detention hearings

Sec. 5. A child detained under section 3 or 4 of this chapter or the child's parent, guardian, or custodian may petition the juvenile court for additional detention hearings.

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