

IC 31-37-18

Chapter 18. Dispositional Hearing

IC 31-37-18-1

Issues for consideration

Sec. 1. The juvenile court shall hold a dispositional hearing to consider the following:

- (1) Alternatives for the care, treatment, rehabilitation, or placement of the child.
- (2) The necessity, nature, and extent of the participation by a parent, a guardian, or a custodian in the program of care, treatment, or rehabilitation for the child.
- (3) The financial responsibility of the parent or guardian of the estate for services provided for the parent or guardian or the child.

As added by P.L.1-1997, SEC.20. Amended by P.L.55-1997, SEC.31.

IC 31-37-18-1.1

Mandatory attendance at predispositional hearing by report preparer or probation officer

Sec. 1.1. (a) At a dispositional hearing under this chapter, the person that prepared the predispositional report or a probation officer described in subsection (b):

- (1) must be present; and
- (2) must present testimony when requested to explain how the individuals participating in the conference described in IC 31-37-17:
 - (A) examined the available options; and
 - (B) recommended the options that most closely coincide with the guidelines provided in IC 31-37-17-4.

(b) A probation officer other than the person who prepared the predispositional report may satisfy the requirements of subsection (a) if the probation officer has knowledge of:

- (1) a conference held under IC 31-37-17-1.1; and
- (2) the report and recommendations made under IC 31-37-17-1.

As added by P.L.55-1997, SEC.32. Amended by P.L.142-2007, SEC.9.

IC 31-37-18-1.3

Notice of dispositional hearing; court duties

Sec. 1.3. (a) The prosecuting attorney or probation department of the juvenile court shall provide notice of the date, time, place, and purpose of the dispositional hearing under this chapter to each:

- (1) party or person for whom a summons is required to be issued under IC 31-37-12-2; and
- (2) foster parent or other caretaker with whom the child is placed for temporary care;

at the time the dispositional hearing is scheduled.

(b) The court shall:

- (1) provide a person who is required to be notified under

subsection (a) an opportunity to be heard; and
(2) allow a person described in subdivision (1) to make
recommendations to the court;
at the dispositional hearing.
As added by P.L.138-2007, SEC.84.

IC 31-37-18-2

Admissibility of reports; opportunity to controvert report

Sec. 2. (a) Any predispositional report may be admitted into evidence to the extent that the report contains evidence of probative value even if the report would otherwise be excluded.

(b) If a report contains information that should not be released to the child or the child's parent, guardian, or custodian, a factual summary of the report may be admitted.

(c) The following shall be given a fair opportunity to controvert any part of the report admitted into evidence:

- (1) The child.
- (2) The child's parent, guardian, or custodian.
- (3) The person representing the interests of the state.
- (4) A foster parent or other caretaker who is entitled to notice of the dispositional hearing under section 1.3 of this chapter.

As added by P.L.1-1997, SEC.20. Amended by P.L.138-2007, SEC.85.

IC 31-37-18-3

Civil commitment; child with a mental illness

Sec. 3. If it appears to the juvenile court that a child has a mental illness, the court may:

- (1) refer the matter to the court having probate jurisdiction for civil commitment proceedings under IC 12-26; or
- (2) initiate a civil commitment proceeding under IC 12-26.

As added by P.L.1-1997, SEC.20. Amended by P.L.99-2007, SEC.197.

IC 31-37-18-4

Discharge of child; continuance of proceeding; no release of department from obligations to child

Sec. 4. If:

- (1) a child is referred to a probate court;
- (2) the juvenile court initiates a commitment proceeding; or
- (3) the court transfers a commitment proceeding under IC 12-26-1-4;

the juvenile court shall discharge the child or continue the court's proceedings under the juvenile law. However, if the child is under the custody or supervision of the department, the juvenile court may not release the department from the obligations of the department to the child pending the outcome of the proceeding under IC 12-26.

As added by P.L.1-1997, SEC.20. Amended by P.L.145-2006, SEC.343; P.L.146-2008, SEC.644.

IC 31-37-18-5

Release of department of child services from obligations to child placed in state institution for involuntary treatment

Sec. 5. If the court authorizes a child who is under the custody or supervision of the department to be placed in a state institution (as defined in IC 12-7-2-184) for voluntary treatment in accordance with IC 12-26-3, the court may not release the department from obligations of the department to the child until the earlier of:

- (1) the date the child is discharged; or
- (2) the date that a parent, guardian, or other responsible person approved by the court assumes the obligations.

As added by P.L.1-1997, SEC.20. Amended by P.L.145-2006, SEC.344; P.L.146-2008, SEC.645.

IC 31-37-18-6

Dispositional decree; factors

Sec. 6. If consistent with the safety of the community and the best interest of the child, the juvenile court shall enter a dispositional decree that:

- (1) is:
 - (A) in the least restrictive (most family like) and most appropriate setting available; and
 - (B) close to the parents' home, consistent with the best interest and special needs of the child;
- (2) least interferes with family autonomy;
- (3) is least disruptive of family life;
- (4) imposes the least restraint on the freedom of the child and the child's parent, guardian, or custodian; and
- (5) provides a reasonable opportunity for participation by the child's parent, guardian, or custodian.

As added by P.L.1-1997, SEC.20. Amended by P.L.55-1997, SEC.33.

IC 31-37-18-7

Provision of copies of dispositional report

Sec. 7. The juvenile court shall send a copy of the dispositional report described in section 10 of this chapter to each person who receives placement or wardship of the child.

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

IC 31-37-18-8

Advisement of modification procedures

Sec. 8. The juvenile court shall advise the child and the child's parent, guardian, or custodian of the procedures under IC 31-37-22.

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

IC 31-37-18-9

Filings and conclusions; written findings concerning recommendations; appeal by department

Sec. 9. (a) The juvenile court shall accompany the court's dispositional decree with written findings and conclusions upon the

record concerning approval, modification, or rejection of the dispositional recommendations submitted in the predispositional report, including the following specific findings:

- (1) The needs of the child for care, treatment, rehabilitation, or placement.
- (2) The need for participation by the parent, guardian, or custodian in the plan of care for the child.
- (3) Efforts made, if the child is removed from the child's parent, guardian, or custodian, to:
 - (A) prevent the child's removal from; or
 - (B) reunite the child with;the child's parent, guardian, or custodian.
- (4) Family services that were offered and provided to:
 - (A) the child; or
 - (B) the child's parent, guardian, or custodian.
- (5) The court's reasons for the disposition.

(b) If the department does not concur with the probation officer's recommendations in the predispositional report and the juvenile court does not follow the department's alternative recommendations, the juvenile court shall:

- (1) accompany the court's dispositional decree with written findings that the department's recommendations contained in the predispositional report are:
 - (A) unreasonable based on the facts and circumstances of the case; or
 - (B) contrary to the welfare and best interests of the child;and
- (2) 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 (d).

(c) The juvenile court may incorporate a finding or conclusion from a predispositional report as a written finding or conclusion upon the record in the court's dispositional decree.

(d) If the juvenile court enters findings and a decree under subsection (b), the department may appeal the juvenile court's decree under any available procedure provided by the Indiana Rules of Trial Procedure or Indiana Rules of Appellate Procedure to allow any disputes arising under this section to be decided in an expeditious manner.

(e) If the department prevails on appeal, 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 initiated under subsection (d), other than the cost of an out-of-home placement ordered by the juvenile court; and
- (2) any out-of-home placement ordered by the juvenile court and implemented after entry of the dispositional decree or modification order, if the juvenile 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 department shall file a notice with the Indiana judicial center.

As added by P.L.1-1997, SEC.20. Amended by P.L.55-1997, SEC.34; P.L.146-2006, SEC.56; P.L.146-2008, SEC.646; P.L.131-2009, SEC.70; P.L.48-2012, SEC.72.