

IC 31-25-2

Chapter 2. General Duties of the Department of Child Services

IC 31-25-2-1

"Department"

Sec. 1. As used in this article, "department" refers to the department of child services established by IC 31-25-1-1.

As added by P.L.145-2006, SEC.271.

IC 31-25-2-2

Personnel

Sec. 2. The director may employ necessary personnel to carry out the department's responsibilities subject to:

- (1) the budget agency's approval under IC 4-12-1-13; and
- (2) IC 4-15-2.

As added by P.L.145-2006, SEC.271.

IC 31-25-2-2.5

No personal liability for official acts

Sec. 2.5. The following are not personally liable, except to the state, for an official act done or omitted in connection with performance of duties under this title:

- (1) The director of the department.
- (2) Other officers and employees of the department.

As added by P.L.146-2008, SEC.563.

IC 31-25-2-3

Department organization

Sec. 3. The director shall determine the best manner of organizing the department to provide the necessary services throughout Indiana to fulfill the purposes of this article.

As added by P.L.145-2006, SEC.271.

IC 31-25-2-4

Family case manager caseload reports

Sec. 4. One (1) time every twelve (12) months, the department shall submit a report to the budget committee and to the legislative council that provides data and statistical information regarding caseloads of family case managers. The report made to the legislative council must be in an electronic format under IC 5-14-6.

As added by P.L.145-2006, SEC.271. Amended by P.L.131-2009, SEC.26.

IC 31-25-2-4.5

Annual report on notice of twenty-first century scholars program to individuals receiving foster care

Sec. 4.5. One (1) time every year, the department shall submit a report to the legislative council that provides:

- (1) data and statistical information regarding the number of individuals receiving foster care who are notified of the

twenty-first century scholars program under IC 21-12-6 and IC 21-12-6.5, including the percentage of individuals receiving foster care who are notified; and

(2) information regarding how the department notifies individuals in foster care of the twenty-first century scholars program under IC 21-12-6 and IC 21-12-6.5.

The report made to the legislative council must be in an electronic format under IC 5-14-6.

As added by P.L.100-2009, SEC.4.

IC 31-25-2-5

Caseload limitations

Sec. 5. (a) The department shall ensure that the department maintains staffing levels of family case managers so that each county has enough family case managers to allow caseloads to be at not more than:

(1) twelve (12) active cases relating to initial assessments, including investigations of an allegation of child abuse or neglect; or

(2) seventeen (17) children monitored and supervised in active cases relating to ongoing services.

(b) The department shall comply with the maximum caseload ratios described in subsection (a).

As added by P.L.145-2006, SEC.271. Amended by P.L.146-2008, SEC.564.

IC 31-25-2-6

Report requirements

Sec. 6. The report required under section 4 of this chapter must do the following:

(1) Indicate the department's progress in recruiting, training, and retaining family case managers.

(2) Describe the methodology used to compute caseloads for each family case manager.

(3) Indicate whether the statewide average caseloads for family case managers exceed the caseload standards established by the department.

(4) If the report indicates that average caseloads exceed caseload standards, include a written plan that indicates the steps that are being taken to reduce caseloads.

(5) Identify, describe, and, if appropriate, recommend best management practices and resources required to achieve effective and efficient delivery of child protection services.

As added by P.L.145-2006, SEC.271. Amended by P.L.131-2009, SEC.27.

IC 31-25-2-7

Department duties

Sec. 7. (a) The department is responsible for the following:

(1) Providing child protection services under this article.

- (2) Providing and administering child abuse and neglect prevention services.
 - (3) Providing and administering child services.
 - (4) Providing and administering family services.
 - (5) Providing family preservation services under IC 31-26-5.
 - (6) Regulating and licensing the following under IC 31-27:
 - (A) Child caring institutions.
 - (B) Foster family homes.
 - (C) Group homes.
 - (D) Child placing agencies.
 - (7) Administering the state's plan for the administration of Title IV-D of the federal Social Security Act (42 U.S.C. 651 et seq.).
 - (8) Administering foster care services.
 - (9) Administering independent living services (as described in 42 U.S.C. 677 et seq.).
 - (10) Administering adoption services.
 - (11) Certifying and providing grants to the youth services bureaus under IC 31-26-1.
 - (12) Administering the project safe program.
 - (13) Paying for programs and services as provided under IC 31-40.
- (b) This chapter does not authorize or require the department to:
- (1) investigate or report on proceedings under IC 31-17-2 relating to a child who is not the subject of an open child in need of services case under IC 31-34; or
 - (2) otherwise monitor child custody or visitation in dissolution of marriage proceedings.
- (c) This chapter does not authorize or require the department to:
- (1) conduct home studies; or
 - (2) otherwise participate in guardianship proceedings under IC 29-3;

other than those over which the juvenile court has jurisdiction under IC 29-3-2-1(c) or IC 31-30-1-1(10).

As added by P.L.145-2006, SEC.271. Amended by P.L.146-2008, SEC.565.

IC 31-25-2-8

Department as single state agency responsible for administering certain grants, funds, and programs; Title IV-E on behalf of Indian children

Sec. 8. (a) The department is the single state agency responsible for administering the following:

- (1) Title IV-B of the federal Social Security Act under 42 U.S.C. 620 et seq.
- (2) Title IV-E of the federal Social Security Act under 42 U.S.C. 670 et seq.
- (3) The federal Child Abuse Prevention and Treatment Act under 42 U.S.C. 5106 et seq.
- (4) The federal Social Services Block Grant under 42 U.S.C. 1397 et seq.

(5) Any other federal program that provides funds to states for services related to the prevention of child abuse and neglect, child welfare services, foster care, independent living, or adoption services.

(b) This subsection applies beginning October 1, 2009. Under 42 U.S.C. 671(a)(32), the department shall negotiate in good faith with any Indian tribe, tribal organization, or tribal consortium in the state that requests to develop an agreement with the state to administer all or part of Title IV-E of the federal Social Security Act under 42 U.S.C. 670 et seq., on behalf of Indian children who are under the authority of the tribe, tribal organization, or tribal consortium.

As added by P.L.145-2006, SEC.271. Amended by P.L.131-2009, SEC.28.

IC 31-25-2-9

Repealed

(Repealed by P.L.1-2009, SEC.174.)

IC 31-25-2-10

Department duties concerning staff

Sec. 10. (a) This section applies after June 30, 2008.

(b) The department of child services:

(1) must have sufficient qualified and trained staff to:

(A) fulfill the purpose of this article;

(B) comply with the maximum caseload ratios for:

(i) family case managers; and

(ii) child welfare caseworkers;

as set forth in IC 31-25-2-5;

(2) must be organized to maximize the continuity of responsibility, care, and service of individual family case managers toward individual children and families;

(3) must provide training to representatives of the department regarding the legal duties of the representatives in carrying out the responsibility of the department under section 7 of this chapter, which may consist of various methods of informing the representatives of their duties, in order to protect the legal rights and safety of children and families from the initial time of contact during the investigation through treatment; and

(4) must provide training to representatives of the child protection services system regarding the constitutional rights of the child's family, including a child's guardian or custodian, that is the subject of an assessment of child abuse or neglect consistent with the Fourth Amendment to the United States Constitution and Article 1, Section 11 of the Constitution of the State of Indiana.

As added by P.L.145-2006, SEC.271. Amended by P.L.131-2009, SEC.30.

IC 31-25-2-11

Powers, responsibilities, and duties

Sec. 11. (a) Except in cases involving a child who may be a victim of institutional abuse or cases in which police investigation also appears appropriate, the department is the primary public agency responsible for:

- (1) receiving;
- (2) assessing or arranging for assessment of; and
- (3) coordinating the assessment of;

all reports of a child who may be a victim of known or suspected child abuse or neglect.

(b) In accordance with a local plan for child protection services, the department shall, by juvenile court order:

- (1) provide protection services to prevent cases where a child may be a victim of further child abuse or neglect; and
- (2) provide for or arrange for and coordinate and monitor the provision of the services necessary to ensure the safety of children.

(c) Reasonable efforts must be made to provide family services designed to prevent a child's removal from the child's parent, guardian, or custodian.

As added by P.L.145-2006, SEC.271. Amended by P.L.131-2009, SEC.31.

IC 31-25-2-12

Notice of existence of photographs, x-rays, and physical medical examination reports

Sec. 12. The department shall give notice of the existence and location of photographs, x-rays, and physical medical examination reports to:

- (1) the appropriate prosecuting attorney; and
- (2) the appropriate law enforcement agency, if the law enforcement agency has not already received the items described in this section under IC 31-33-10-3.

As added by P.L.145-2006, SEC.271.

IC 31-25-2-13

Access to photographs, x-rays, and physical medical examination reports

Sec. 13. Photographs, x-rays, or physical medical examination reports shall be made available to:

- (1) the law enforcement agency having jurisdiction;
- (2) the department;
- (3) the prosecuting attorney;
- (4) the guardian ad litem; or
- (5) the court appointed special advocate appointed by the juvenile court;

for use in any judicial proceeding relating to the subject matter of a report made under this article and, to the extent permissible under the Indiana Rules of Trial Procedure, to the adverse party in any proceeding arising under this article.

As added by P.L.145-2006, SEC.271.

IC 31-25-2-14

Cooperation with public and private agencies

Sec. 14. (a) The department shall cooperate with and shall seek and receive the cooperation of appropriate public and private agencies, including the following:

- (1) Law enforcement agencies.
- (2) The courts.
- (3) Organizations, groups, and programs providing or concerned with services related to the prevention, identification, or treatment of a child who may be a victim of child abuse or neglect.

(b) The department shall also cooperate with public and private agencies, organizations, and groups that provide family services designed to prevent a child's removal from the child's home.

(c) Cooperation and involvement under this section may include the following:

- (1) Consultation services.
- (2) Planning.
- (3) Case management.
- (4) Public education and information services.
- (5) Use of each other's facilities, staff, and other training.

As added by P.L.145-2006, SEC.271.

IC 31-25-2-15

Purchase of services of public or private agency

Sec. 15. (a) Notwithstanding any other law, the department may purchase and use the services of any public or private agency if adequate provision is made for continuity of care and accountability.

(b) If the department purchases services under this article, the state shall reimburse the expenses, to the extent allowed by state and federal statutes, rules, and regulations, to the locality or agency in the same manner and to the same extent as if the services were provided directly by the department.

As added by P.L.145-2006, SEC.271.

IC 31-25-2-16

Department of child services child care fund

Sec. 16. (a) The department of child services child care fund is established for the purpose of providing training and facilitating compliance with and enforcement of IC 31-25 through IC 31-28. The fund shall be administered by the department.

(b) The fund consists of the fees and civil penalties collected under IC 31-25 through IC 31-28.

(c) The expenses of administering the fund shall be paid from money in the fund.

(d) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund.

(e) Money in the fund at the end of a state fiscal year does not

revert to the state general fund.
As added by P.L.145-2006, SEC.271.

IC 31-25-2-17

Repealed

(Repealed by P.L.146-2008, SEC.806.)

IC 31-25-2-18

Rules

Sec. 18. The department may adopt rules under IC 4-22-2 necessary to carry out the department's or bureau's duties under this article.

As added by P.L.145-2006, SEC.271.

IC 31-25-2-19

Adoption fees

Sec. 19. (a) The department may charge the following adoption fees:

(1) An adoption placement fee that may not exceed the actual costs incurred by the department for medical expenses of children and mothers.

(2) A fee that does not exceed the time and travel costs incurred by the department for home study and investigation concerning a contemplated adoption.

(b) Fees charged under this section shall be deposited in the child trust clearance account established under IC 31-25-2-20.2. Money deposited under this subsection shall be expended by the department for the following purposes without further appropriation:

(1) The care of children whose adoption is contemplated.

(2) The improvement of adoption services provided by the department.

(c) The director may adopt rules governing the expenditure of money under this section.

(d) The department may reduce or waive charges authorized under this section in hardship cases or for other good cause after investigation. The department may adopt forms on which the written authorization is provided.

As added by P.L.145-2006, SEC.271. Amended by P.L.146-2008, SEC.566.

IC 31-25-2-20

Expired

(Expired 1-1-2011, by P.L.3-2008, SEC.239.)

IC 31-25-2-20.1

Gift, devise, or bequest of personal property; investment of money; child trust clearance account; commingling prohibited

Sec. 20.1. (a) The department may receive and administer a gift, devise, or bequest of personal property, including the income from real property, that is:

- (1) to or for the benefit of a home or an institution in which formerly abused or neglected children are cared for under the supervision of the department; or
- (2) for the benefit of children who are committed to the care or supervision of the department.

(b) The department may invest or reinvest money received under this section in the same types of securities in which life insurance companies are authorized by law to invest the money of the life insurance companies.

(c) The following shall be kept in the child trust clearance account established under section 20.2 of this chapter and may not be commingled with any other fund or account or with money received from taxation:

- (1) All money received by the department under this section.
- (2) All money, proceeds, or income realized from real property or other investments.

(d) Subject to the approval of the director, money described in subsection (c)(1) or (c)(2) may be expended by the department in any manner consistent with the purposes of the child trust clearance account and with the intention of the donor.

As added by P.L.146-2008, SEC.567.

IC 31-25-2-20.2

Receipt and administration of money to or for the benefit of persons receiving payments or services; child trust clearance account; commingling prohibited

Sec. 20.2. (a) This section does not apply to:

- (1) money received before January 1, 2009, to reimburse the county family and children's fund for expenditures made from the appropriations of the counties; or
- (2) money received after December 31, 2008, to reimburse the department for expenditures made by the department for child services.

(b) The department may receive and administer money available to or for the benefit of a person receiving payments or services from the department. The following apply to all money received under this section:

- (1) The money shall be kept in a special account known as the child trust clearance account and may not be commingled with any other money.
- (2) The money may be expended by the department in any manner consistent with the following:
 - (A) The purpose of the child trust clearance account or with the intention of the donor of the money.
 - (B) Indiana law.

As added by P.L.146-2008, SEC.568.

IC 31-25-2-20.4

Citizen review panels; membership; appointment; duties; response to report; prohibited acts

Sec. 20.4. (a) The department shall establish at least three (3) citizen review panels in accordance with the requirements of the federal Child Abuse Prevention and Treatment Act under 42 U.S.C. 5106a.

(b) A citizen review panel consists of volunteer members who broadly represent the community in which the panel is established, including members who have expertise in the prevention and treatment of child abuse and neglect.

(c) The department shall appoint the citizen review panels in the following manner:

(1) One (1) panel must be a community child protection team established in a county under IC 31-33-3-1, selected by the director of the department with the consent of the team.

(2) One (1) panel must be either:

(A) the statewide child fatality review committee established under IC 31-33-25-6; or

(B) a local child fatality review team established under IC 31-33-24-6;

selected by the director of the department with the consent of the committee or team.

(3) One (1) panel must be a foster care advisory panel consisting of at least five (5) and not more than eleven (11) members, selected to the extent feasible from the membership of any foster care advisory group previously established or recognized by the department. If the panel consists of seven (7) or fewer members, the panel must include at least one (1) foster parent licensed by the department through a county office and one (1) foster parent licensed by the department through a child placing agency licensed under IC 31-27-6. If the panel consists of more than seven (7) members, the panel must include two (2) foster parents licensed by the department through a county office and two (2) foster parents licensed by the department through a child placing agency licensed under IC 31-27-6. Additional members of the panel must include one (1) or more individuals who are employed by a child placing agency licensed under IC 31-27-6 and who provide services to foster families and children placed by the department in out-of-home placements, and may include other representatives of child welfare service providers or persons who provide training to current or prospective foster parents. All members of this panel must be individuals who are not employees of the department.

(4) The membership of any additional citizen review panels established under this section shall be determined by the director of the department, consistent with the guidelines for panel membership stated in subsection (b) and the purposes and functions of the panels as described in this section.

(5) Each citizen review panel shall be appointed for a term of three (3) years beginning July 1, 2007. Upon expiration of the term of the panel described in subdivision (1), the director of the department shall select a community child protection team

established in a different county for the succeeding term. Upon expiration of the term of the panel described in subdivision (2), the director of the department shall select a different fatality review team, or committee, if available, for the succeeding term. Panels appointed under subdivision (3) or (4) may be reappointed for successive terms, in the discretion of the director of the department. The director may appoint individuals as needed to fill vacancies that occur during the term of any panel appointed under subdivision (3) or (4).

(d) A citizen review panel shall evaluate the extent to which a child welfare agency is effectively discharging the agency's child protection responsibilities by examining:

- (1) the policies and procedures of child welfare agencies;
- (2) if appropriate, specific child protective services cases; and
- (3) other criteria the citizen review panel considers important to ensure the protection of children.

(e) Each citizen review panel shall:

- (1) meet at least one (1) time every three (3) months; and
- (2) prepare and make available to the department and the public an annual report that contains a summary of the activities of the citizen review panel.

(f) The department shall, not more than six (6) months after the date the department receives a report from a citizen review panel under subsection (e), submit to the citizen review panel a written response indicating whether and how the department will incorporate the recommendations of the citizen review panel. The department shall at the same time provide appropriate child welfare agencies with copies of the department's written response.

(g) A child welfare agency shall make all reports and other materials in the child welfare agency's possession available to a citizen review panel established under this section, including any reports and materials that the child welfare agency has received from other agencies.

(h) A member of a citizen review panel may not disclose to a person or government official any identifying information that is provided to the citizen review panel about:

- (1) a specific child protective services case or child welfare agency case;
- (2) a child or member of the child's family who is the subject of a child protective services assessment; or
- (3) any other individuals identified in confidential reports, documents, or other materials.

(i) If a member of a citizen review panel violates subsection (h), the department may remove the member from the citizen review panel.

(j) A child welfare agency shall cooperate and work with each citizen review panel established under this section.

As added by P.L.138-2007, SEC.46. Amended by P.L.131-2009, SEC.32.

IC 31-25-2-21

Transitional services plan

Sec. 21. (a) As used in this section, "transitional services plan" means a plan that provides information concerning the following to an individual described in subsection (b):

- (1) Education.
- (2) Employment.
- (3) Housing.
- (4) Health care.
- (5) Development of problem solving skills.
- (6) Available local, state, and federal financial assistance.

(b) The department shall implement a program that provides a transitional services plan to the following:

- (1) An individual who has become or will become:
 - (A) eighteen (18) years of age; or
 - (B) emancipated;while receiving foster care.
- (2) An individual who:
 - (A) is at least eighteen (18) but less than twenty-one (21) years of age; and
 - (B) is receiving foster care for older youth under IC 31-28-5.7.

(c) The department shall adopt rules under IC 4-22-2, including emergency rules under IC 4-22-2-37.1, necessary to implement the program described in this section.

As added by P.L.143-2008, SEC.6. Amended by P.L.131-2009, SEC.33.

IC 31-25-2-22

Provide list to state department of health; electronic means

Sec. 22. (a) The department shall, at least one (1) time each month, provide to the state department of health a list containing the names and dates of birth of children identified in the records of the department to whom all of the following apply:

- (1) The parent-child relationship between the child and a birth parent was terminated under IC 31-35 or IC 31-6-5-1 (before its repeal).
- (2) The child is less than twenty-one (21) years of age.
- (3) The name of the child has not been included previously in a list provided to the department of health under this section.

(b) The department shall provide the list described under subsection (a) through electronic means agreed to by the department and the state department of health.

As added by P.L.191-2011, SEC.56.