

IC 31-34-2.3

Chapter 2.3. Child Protective Orders for Removal of Alleged Perpetrators

IC 31-34-2.3-0.1

Application of certain amendments to chapter

Sec. 0.1. The addition of sections 6 and 7 of this chapter by P.L.52-2007 applies only to offenses committed after June 30, 2007. *As added by P.L.220-2011, SEC.513.*

IC 31-34-2.3-1

Petition to remove alleged perpetrator of child abuse or neglect from child's residence

Sec. 1. If, after an investigation, the department determines that:

- (1) there is probable cause to believe that a child is a child in need of services; and
- (2) the child would be protected in the child's residence by the removal of the alleged perpetrator of child abuse or neglect;

the department may file a petition to remove the alleged perpetrator from the child's residence instead of attempting to remove the child from the child's residence.

As added by P.L.52-2007, SEC.8.

IC 31-34-2.3-2

Temporary child protective order; petition

Sec. 2. A court may issue a temporary child protective order in an action by the department for the removal of an alleged perpetrator of child abuse or neglect under section 1 of this chapter without a hearing if the department's petition to remove the alleged perpetrator states facts sufficient to satisfy the court of all of the following:

- (1) There is an immediate danger to the physical health or safety of the child or the child has been a victim of sexual abuse.
- (2) There is not time for an adversary hearing given the immediate danger to the physical health or safety of the child.
- (3) The child is not in danger of child abuse or neglect from a parent or other adult with whom the child will continue to reside in the child's residence.
- (4) The issuance of a temporary child protective order is in the best interest of the child.

As added by P.L.52-2007, SEC.8.

IC 31-34-2.3-3

Serving temporary child protective order

Sec. 3. The department shall serve a temporary child protective order issued under section 2 of this chapter on:

- (1) the alleged perpetrator of child abuse or neglect; and
- (2) the parent or other adult with whom the child will continue to reside.

As added by P.L.52-2007, SEC.8.

IC 31-34-2.3-4

Hearing; notice

Sec. 4. (a) A juvenile court shall hold a hearing on the temporary child protective order issued under this chapter not more than forty-eight (48) hours (excluding Saturdays, Sundays, and any day on which a legal holiday is observed for state employees as provided in IC 1-1-9) after the temporary child protective order is issued.

(b) The department shall provide notice of the time, place, and purpose of the hearing to the following:

- (1) The child.
- (2) The child's parent, guardian, or custodian if the person can be located.
- (3) Any adult with whom the child is residing.
- (4) The alleged perpetrator of child abuse or neglect.

As added by P.L.52-2007, SEC.8.

IC 31-34-2.3-5

Issuing child protective order; other relief; valid

Sec. 5. (a) After notice and a hearing, the court may issue a child protective order if the department's petition to remove the alleged perpetrator states facts sufficient to satisfy the court that:

- (1) the child is not in danger of child abuse or neglect from a parent or other adult with whom the child will continue to reside in the child's residence; and
- (2) one (1) or more of the following exist:
 - (A) The presence of the alleged perpetrator of child abuse or neglect in the child's residence constitutes a continuing danger to the physical health or safety of the child.
 - (B) The child has been the victim of sexual abuse, and there is a substantial risk that the child will be the victim of sexual abuse in the future if the alleged perpetrator of child abuse or neglect remains in the child's residence.

(b) If the court issues a child protective order under this section, the court may grant other relief as provided under IC 34-26-5-9.

(c) A child protective order issued under this section is valid until one (1) of the following occurs:

- (1) The court determines the child is not a child in need of services.
- (2) The child is adjudicated a child in need of services and the court enters a dispositional decree.

As added by P.L.52-2007, SEC.8.

IC 31-34-2.3-6

Duties for parent or other custodian of child; order

Sec. 6. A temporary child protective order issued under this chapter or any other order that requires the removal of an alleged perpetrator of child abuse or neglect from the residence of a child must require that the parent or other adult with whom the child will continue to reside in the child's residence makes reasonable efforts:

- (1) to monitor the residence; and

(2) to report to the department and the appropriate law enforcement agency any attempt by the alleged perpetrator of child abuse or neglect to return to the child's residence.

As added by P.L.52-2007, SEC.8.

IC 31-34-2.3-7

Violation of order by parent or other custodian of child

Sec. 7. A parent or other adult with whom a child continues to reside after the issuance of a child protective order issued under section 2 or 5 of this chapter for removal of an alleged perpetrator of child abuse or neglect who knowingly or intentionally fails to comply with the requirements under section 6 of this chapter commits a Class A misdemeanor.

As added by P.L.52-2007, SEC.8.

IC 31-34-2.3-8

Violation of order by alleged perpetrator of child abuse or neglect

Sec. 8. An alleged perpetrator of child abuse who knowingly or intentionally returns to a child's residence in violation of a child protective order issued under section 2 or 5 of this chapter commits a Class A misdemeanor. However, the offense is a Class D felony if the alleged perpetrator has a prior unrelated conviction under this section.

As added by P.L.52-2007, SEC.8.