

IC 31-34-2

Chapter 2. Taking a Child in Need of Services Into Custody

IC 31-34-2-1

Court order to take child into custody

Sec. 1. A child may be taken into custody by a law enforcement officer under an order of the court.

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

IC 31-34-2-2

Taking alleged perpetrator into custody; protective order

Sec. 2. (a) A law enforcement officer may take a person into custody if the law enforcement officer has probable cause to believe that the person is the alleged perpetrator of an act against a child who the law enforcement officer believes to be a child in need of services as a result of the alleged perpetrator's act. The law enforcement officer may take the alleged perpetrator into custody under this section only for the purpose of removing the alleged perpetrator from the residence where the child believed to be in need of services resides.

(b) The law enforcement officer shall immediately contact the attorney for the county department or another authorized person for the purpose of initiating a protective order under IC 31-34-25 that will require the alleged perpetrator to refrain from having direct or indirect contact with the child.

As added by P.L.1-1997, SEC.17. Amended by P.L.1-2003, SEC.77.

IC 31-34-2-3

Taking child into custody without court order; documentation

Sec. 3. (a) If a law enforcement officer's action under section 2 of this chapter will not adequately protect the safety of the child, the child may be taken into custody by a law enforcement officer, probation officer, or caseworker acting with probable cause to believe the child is a child in need of services if:

- (1) it appears that the child's physical or mental condition will be seriously impaired or seriously endangered if the child is not immediately taken into custody;
- (2) there is not a reasonable opportunity to obtain an order of the court; and
- (3) consideration for the safety of the child precludes the immediate use of family services to prevent removal of the child.

(b) A probation officer or caseworker may take a child into custody only if the circumstances make it impracticable to obtain assistance from a law enforcement officer.

(c) If a person takes a child into custody under this section, the person shall make written documentation not more than twenty-four (24) hours after the child is taken into custody as provided in section 6 of this chapter.

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

IC 31-34-2-4

Missing child taken into custody without court order

Sec. 4. A child may be taken into custody by:

- (1) a law enforcement officer;
- (2) a probation officer; or
- (3) a caseworker;

acting with probable cause to believe the child is a child in need of services because the child is a missing child (as defined in IC 10-13-5-4).

As added by P.L.1-1997, SEC.17. Amended by P.L.2-2003, SEC.74.

IC 31-34-2-5

Missing child taken into custody under court order

Sec. 5. If a child in need of services is a missing child and is taken into custody under a court order, the person taking the child into custody shall do the following:

- (1) Take the child to a place designated in the order.
- (2) Give notice to the following that the child has been taken into custody:
 - (A) The child's legal custodian.
 - (B) The clearinghouse for information on missing children and missing endangered adults established by IC 10-13-5.

As added by P.L.1-1997, SEC.17. Amended by P.L.2-2003, SEC.75; P.L.43-2009, SEC.19.

IC 31-34-2-6

Documentation by person taking child into custody without court order; forms

Sec. 6. (a) A person taking a child into custody under section 3 of this chapter shall make written documentation evidencing the following:

- (1) The facts establishing probable cause to believe that the child is a child in need of services.
- (2) Why the child's physical or mental condition will be seriously impaired or seriously endangered if the child is not immediately taken into custody.
- (3) Why the person is unable to obtain a court order and what steps have been taken to obtain a court order.
- (4) Why the department of child services is unable to protect the safety of the child without taking the child into custody.
- (5) Why the person is unable to obtain the assistance of a law enforcement officer if the child is taken into custody by a probation officer or caseworker without the assistance of a law enforcement officer.

(b) The department of child services shall create forms to be used for documentation under this section.

(c) The person taking the child into custody shall immediately forward a copy of the documentation to the department of child services to be included in the report required by IC 31-33-7-4.

As added by P.L.1-1997, SEC.17. Amended by P.L.234-2005,

SEC.168.