

## **IC 31-37-6**

### **Chapter 6. Detention Hearing**

#### **IC 31-37-6-1**

##### **Application of chapter**

Sec. 1. This chapter applies only to a child alleged to be a delinquent child.

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

#### **IC 31-37-6-2**

##### **Time for hearing**

Sec. 2. If a child is not released, a detention hearing shall be held not later than forty-eight (48) hours, excluding Saturdays, Sundays, and legal holidays, after the child is taken into custody.

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

#### **IC 31-37-6-3**

##### **Notice; court duties**

Sec. 3. (a) Notice of the time, place, and purpose of a detention hearing shall be given to:

- (1) the child;
- (2) the child's parent, guardian, or custodian if the person can be located; and
- (3) each foster parent or other caretaker with whom the child has been placed for temporary care under IC 31-37-5.

(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.

*As added by P.L.1-1997, SEC.20. Amended by P.L.138-2007, SEC.81.*

#### **IC 31-37-6-4**

##### **Release if detention hearing not timely held**

Sec. 4. If a detention hearing is not held before the time specified by section 2 of this chapter, the child shall be released.

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

#### **IC 31-37-6-5**

##### **Notice of legal rights; appointment of counsel**

Sec. 5. The juvenile court:

- (1) shall inform the child and the child's parent, guardian, or custodian of the child's right to counsel and to refrain from testifying against himself or herself; and
- (2) may appoint counsel under IC 31-32-4.

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

#### **IC 31-37-6-6**

**Release; conditions; findings required for detention order**

Sec. 6. (a) The juvenile court shall release the child on the child's own recognizance or to the child's parent, guardian, or custodian upon the person's written promise to bring the child before the court at a time specified. However, the court may order the child detained if the court finds probable cause to believe the child is a delinquent child and that:

- (1) the child is unlikely to appear for subsequent proceedings;
- (2) detention is essential to protect the child or the community;
- (3) the parent, guardian, or custodian:
  - (A) cannot be located; or
  - (B) is unable or unwilling to take custody of the child;
- (4) return of the child to the child's home is or would be:
  - (A) contrary to the best interests and welfare of the child; and
  - (B) harmful to the safety or health of the child; or
- (5) the child has a reasonable basis for requesting that the child not be released.

However, the findings under this subsection are not required if the child is ordered to be detained in the home of the child's parent, guardian, or custodian or is released subject to any condition listed in subsection (d).

(b) If a child is detained for a reason specified in subsection (a)(3), (a)(4), or (a)(5), the child shall be detained under IC 31-37-7-1.

(c) If a child is detained for a reason specified in subsection (a)(4), the court shall make written findings and conclusions that include the following:

- (1) The factual basis for the finding specified in subsection (a)(4).
- (2) A description of the family services available and efforts made to provide family services before removal of the child.
- (3) The reasons why efforts made to provide family services did not prevent removal of the child.
- (4) Whether efforts made to prevent removal of the child were reasonable.

(d) Whenever the court releases a child under this section, the court may impose conditions upon the child, including:

- (1) home detention;
- (2) electronic monitoring;
- (3) a curfew restriction;
- (4) a protective order;
- (5) a no contact order;
- (6) an order to comply with Indiana law; or
- (7) an order placing any other reasonable conditions on the child's actions or behavior.

(e) If the juvenile court releases a child to the child's parent, guardian, or custodian under this section, the court may impose conditions on the child's parent, guardian, or custodian to ensure:

- (1) the safety of the child's physical or mental health;

- (2) the public's physical safety; or
- (3) that any combination of subdivisions (1) and (2) is satisfied.

(f) The juvenile court shall include in any order approving or requiring detention of a child or approving temporary detention of a child taken into custody under IC 31-37-5 all findings and conclusions required under:

- (1) the 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 delinquent child for assistance under Title IV-E or any other federal law.

(g) 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 delinquent child constitutes compliance with subsection (f).

*As added by P.L.1-1997, SEC.20. Amended by P.L.188-1999, SEC.2; P.L.217-2001, SEC.13; P.L.1-2002, SEC.127; P.L.146-2006, SEC.55; P.L.146-2008, SEC.624.*

#### **IC 31-37-6-7**

##### **Order to appear for additional detention hearing**

Sec. 7. Upon the juvenile court's own motion or upon the motion of the person representing the interests of the state, a child who has been released may be ordered to appear for an additional detention hearing.

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

#### **IC 31-37-6-8**

##### **Petition for additional detention hearing**

Sec. 8. A child detained under section 6 or 7 of this chapter may petition the juvenile court for an additional detention hearing.

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

#### **IC 31-37-6-9**

##### **Release on bail**

Sec. 9. A child may not be released on bail except as provided by IC 31-30-3.

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

#### **IC 31-37-6-10**

##### **Surrender of child's driver's license as condition of release**

Sec. 10. The juvenile court may require a child to surrender the child's driver's license as a condition of release to ensure the child's appearance at subsequent proceedings.

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