

IC 31-30

ARTICLE 30. JUVENILE LAW: JUVENILE COURT JURISDICTION

IC 31-30-1

Chapter 1. Jurisdiction Generally

IC 31-30-1-1

Exclusive original jurisdiction

Sec. 1. A juvenile court has exclusive original jurisdiction, except as provided in sections 9, 10, 12, and 13 of this chapter, in the following:

- (1) Proceedings in which a child, including a child of divorced parents, is alleged to be a delinquent child under IC 31-37.
- (2) Proceedings in which a child, including a child of divorced parents, is alleged to be a child in need of services under IC 31-34.
- (3) Proceedings concerning the paternity of a child under IC 31-14.
- (4) Proceedings under the interstate compact on juveniles under IC 31-37-23.
- (5) Proceedings governing the participation of a parent, guardian, or custodian in a program of care, treatment, or rehabilitation for a child under IC 31-34-16 or IC 31-37-15.
- (6) Proceedings under IC 31-34-4, IC 31-34-5, IC 31-37-5, and IC 31-37-6 governing the detention of a child before a petition has been filed.
- (7) Proceedings to issue a protective order under IC 31-32-13.
- (8) Proceedings in which a child less than sixteen (16) years of age is alleged to have committed an act that would be a misdemeanor traffic offense if committed by an adult.
- (9) Proceedings in which a child is alleged to have committed an act that would be an offense under IC 9-30-5 if committed by an adult.
- (10) Guardianship of the person proceedings for a child:
 - (A) who has been adjudicated as a child in need of services;
 - (B) for whom a juvenile court has approved a permanency plan under IC 31-34-21-7 that provides for the appointment of a guardian of the person; and
 - (C) who is the subject of a pending child in need of services proceeding under IC 31-34.
- (11) Proceedings concerning involuntary drug and alcohol treatment under IC 31-32-16.
- (12) Other proceedings specified by law.

As added by P.L. 1-1997, SEC.13. Amended by P.L. 164-1999, SEC.1; P.L. 217-2001, SEC.3; P.L. 196-2003, SEC.1.

IC 31-30-1-2

Applicability of juvenile law to certain offenses

Sec. 2. Except as provided in IC 33-33-45-6 and section 8 of this chapter, the juvenile law does not apply to the following:

- (1) A child who is alleged to have committed a violation of a statute defining an infraction, except as provided under IC 7.1-5-7.
- (2) A child who is alleged to have committed a violation of an ordinance.
- (3) A child who:
 - (A) is alleged to have committed an act that would be a felony if committed by an adult; and
 - (B) has previously been waived under IC 31-30-3 (or IC 31-6-2-4 before its repeal) to a

court having felony jurisdiction.

As added by P.L.1-1997, SEC.13. Amended by P.L.98-2004, SEC.104; P.L.67-2008, SEC.1.

IC 31-30-1-2.5

Persons prohibited from serving as guardian or custodian of a child

Sec. 2.5. A juvenile court may not appoint a person to serve as the guardian or custodian of a child or permit a person to continue to serve as a guardian or custodian of a child if the person:

(1) is a sexually violent predator (as described in IC 35-38-1-7.5);

(2) was at least eighteen (18) years of age at the time of the offense and committed child molesting (IC 35-42-4-3) or sexual misconduct with a minor (IC 35-42-4-9) against a child less than sixteen (16) years of age:

(A) by using or threatening the use of deadly force;

(B) while armed with a deadly weapon; or

(C) that resulted in serious bodily injury; or

(3) was less than eighteen (18) years of age at the time of the offense but was tried and convicted as an adult of:

(A) an offense described in:

(i) IC 35-42-4-1;

(ii) IC 35-42-4-2;

(iii) IC 35-42-4-3 as a Class A or Class B felony;

(iv) IC 35-42-4-5(a)(1);

(v) IC 35-42-4-5(a)(2);

(vi) IC 35-42-4-5(a)(3);

(vii) IC 35-42-4-5(b)(1) as a Class A or Class B felony;

(viii) IC 35-42-4-5(b)(2); or

(ix) IC 35-42-4-5(b)(3) as a Class A or Class B felony;

(B) an attempt or conspiracy to commit a crime listed in clause (A); or

(C) a crime under the laws of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in clauses (A) and (B).

As added by P.L.139-2006, SEC.3, P.L.140-2006, SEC.18, and P.L.173-2006, SEC.18.

Amended by P.L.131-2009, SEC.38.

IC 31-30-1-3

Cases involving adults charged with crimes

Sec. 3. A juvenile court has concurrent original jurisdiction in cases involving adults charged with the crime of:

(1) neglect of a dependent (IC 35-46-1-4);

(2) contributing to delinquency (IC 35-46-1-8);

(3) violating the compulsory school attendance law IC 20-33-2);

(4) criminal confinement of a child (IC 35-42-3-3); or

(5) interference with custody (IC 35-42-3-4).

As added by P.L.1-1997, SEC.13. Amended by P.L.1-2005, SEC.202.

IC 31-30-1-4

Juvenile court lacks jurisdiction over individuals at least 16 years of age committing certain felonies; retention of jurisdiction by court having adult criminal jurisdiction

Sec. 4. (a) The juvenile court does not have jurisdiction over an individual for an alleged violation of:

- (1) IC 35-41-5-1(a) (attempted murder);
- (2) IC 35-42-1-1 (murder);
- (3) IC 35-42-3-2 (kidnapping);
- (4) IC 35-42-4-1 (rape);
- (5) IC 35-42-4-2 (criminal deviate conduct);
- (6) IC 35-42-5-1 (robbery) if:
 - (A) the robbery was committed while armed with a deadly weapon; or
 - (B) the robbery results in bodily injury or serious bodily injury;
- (7) IC 35-42-5-2 (carjacking);
- (8) IC 35-45-9-3 (criminal gang activity);
- (9) IC 35-45-9-4 (criminal gang intimidation);
- (10) IC 35-47-2-1 (carrying a handgun without a license), if charged as a felony;
- (11) IC 35-47-10 (children and firearms), if charged as a felony;
- (12) IC 35-47-5-4.1 (dealing in a sawed-off shotgun); or
- (13) any offense that may be joined under IC 35-34-1-9(a)(2) with any crime listed in subdivisions (1) through (12);

if the individual was at least sixteen (16) years of age at the time of the alleged violation.

(b) The juvenile court does not have jurisdiction for an alleged violation of manufacturing or dealing in cocaine or a narcotic drug (IC 35-48-4-1), dealing in methamphetamine (IC 35-48-4-1.1), dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2), or dealing in a schedule IV controlled substance (IC 35-48-4-3), if:

(1) the individual has a prior unrelated conviction under IC 35-48-4-1, IC 35-48-4-1.1, IC 35-48-4-2, or IC 35-48-4-3; or

(2) the individual has a prior unrelated juvenile adjudication that, if committed by an adult, would be a crime under IC 35-48-4-1, IC 35-48-4-1.1, IC 35-48-4-2, or IC 35-48-4-3; and the individual was at least sixteen (16) years of age at the time of the alleged violation.

(c) Once an individual described in subsection (a) or (b) has been charged with any crime listed in subsection (a) or (b), the court having adult criminal jurisdiction shall retain jurisdiction over the case even if the individual pleads guilty to or is convicted of a lesser included offense. A plea of guilty to or a conviction of a lesser included offense does not vest jurisdiction in the juvenile court.

As added by P.L. 1-1997, SEC.13. Amended by P.L. 17-2001, SEC.7; P.L. 151-2006, SEC.12; P.L.216-2007, SEC.35; P.L.67-2008, SEC.2.

IC 31-30-1-5

Concurrent original jurisdiction with probate court

Sec. 5. A juvenile court has concurrent original jurisdiction with the probate court in the following proceedings:

- (1) Proceedings to commit children under IC 12-26.
- (2) Proceedings to terminate the parent-child relationship under IC 31-35.

However, the juvenile court's jurisdiction is limited as described in IC 12-26-1-4.
As added by P.L.1-1997, SEC.13.

IC 31-30-1-6

Probate court jurisdiction over guardianship of person less than 18 years of age

Sec. 6. (a) Subject to subsections (b) and (c), this article does not prohibit a probate court from exercising its jurisdiction over guardianship of a person who is less than eighteen (18) years of age.

(b) If allegations in the petition for guardianship or allegations produced at guardianship proceedings indicate that the person for whom the guardianship is requested meets the definition of a child in need of services under IC 31-34-1, the probate court on its own motion or at the request of a party shall:

(1) send the petition for guardianship or the record of guardianship proceedings, or both, to the prosecuting attorney or the attorney for the department of child services; and

(2) direct the prosecuting attorney or the attorney for the department of child services to initiate an investigation and proceedings in the juvenile court to determine whether the person for whom the guardianship is requested is a child in need of services.

(c) The probate court retains jurisdiction over the matter until the juvenile court authorizes the filing of a petition under IC 31-34-9.

As added by P.L.1-1997, SEC.13. Amended by P.L.145-2006, SEC.275.

IC 31-30-1-7

Juveniles tried as adults

Sec. 7. A juvenile court has concurrent original jurisdiction in cases involving individuals who are subject to prosecution under IC 14-15-10-3. *As added by P.L.1-1997, SEC.13.*

IC 31-30-1-8

Exclusive jurisdiction of juvenile division of Marion superior court

Sec. 8. The juvenile division of the Marion superior court established under IC 33-33-49 has exclusive jurisdiction over a child who:

(1) has been taken into custody in Marion County; and

(2) has allegedly committed an act that would be a misdemeanor traffic offense if committed by an adult.

As added by P.L.1-1997, SEC.13. Amended by P.L.98-2004, SEC.105.

IC 31-30-1-9

Concurrent original jurisdiction of act that would be murder or felony by child who left Indiana; transfer following extradition

Sec. 9. (a) A court having felony jurisdiction has concurrent original jurisdiction with the juvenile court if there is probable cause to believe that:

(1) a child has committed an act that would be murder or a felony if committed by an adult;

(2) the child has left Indiana; and

(3) the state cannot obtain jurisdiction over the child in any other lawful manner except under the proceedings authorized for the extradition of alleged felons.

(b) Upon the return of any child under the criminal extradition law, the court having felony

jurisdiction shall immediately transfer the child to the juvenile court under section 11 of this chapter. *As added by P.L.1-1997, SEC.13.*

IC 31-30-1-10

Paternity proceedings to enforce support

Sec. 10. A circuit court has concurrent original jurisdiction with the juvenile court, including the probate court described in IC 33-31-1-9(b), for the purpose of establishing the paternity of a child in a proceeding under:

- (1) IC 31-18;
- (2) IC 31-1.5 (before its repeal); or
- (3) IC 31-2-1 (before its repeal);

to enforce a duty of support.

As added by P.L.1-1997, SEC.13. Amended by P.L.98-2004, SEC.106.

IC 31-30-1-11

Transfer from court having criminal jurisdiction; release on recognizance; detention

Sec. 11. (a) Except as provided in section 9 of this chapter, if a court having criminal jurisdiction determines that a defendant is alleged to have committed a crime before the defendant is eighteen (18) years of age, the court shall immediately transfer the case, together with certified copies of all papers, documents, and testimony, to the juvenile court. The juvenile court shall proceed as if it had received a referral under IC 31-37-8.

(b) The court having criminal jurisdiction shall release the child on the child's own recognizance or to the child's parent, guardian, or custodian upon that person's written promise to bring the child before the juvenile court at a specified time. However, the court may order the child detained if the court finds probable cause to believe that the child committed an act that would be a crime if committed by an adult and that:

- (1) the child is unlikely to appear before the juvenile court 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; or
- (4) the child has a reasonable basis for requesting that he or she not be released.

If the child is detained for a reason specified by subdivision (3) or (4), the child must be detained in accordance with IC 31-37-7-1.

(c) If the child is not released, the child shall be delivered to a place designated by the juvenile court. The court having criminal jurisdiction shall promptly notify the child's parent, guardian, or custodian and an intake officer of where the child is being held and the reasons for the child's detention.

(d) A child transferred to the juvenile court under this section (or IC 31-6-2-2 before its repeal) may not be released on bail.

As added by P.L.1-1997, SEC.13.

IC 31-30-1-12

Jurisdiction of child custody proceeding in marriage dissolution

Sec. 12. (a) Subject to subsection (b), a court having jurisdiction under IC 31-17-2 of a child custody proceeding in a marriage dissolution has concurrent original jurisdiction with the juvenile court for the purpose of modifying custody of a child who is under the jurisdiction of the juvenile court because:

- (1) the child is the subject of a child in need of services proceeding;
- (2) the child is the subject of a juvenile delinquency proceeding that does not involve an act described under IC 31-37-1-2; or
- (3) the child is the subject of a paternity proceeding.

(b) Whenever the court having child custody jurisdiction under IC 31-17-2 in a marriage dissolution modifies child custody as provided by this section, the modification is effective only when the juvenile court:

- (1) enters an order approving the child custody modification; or
- (2) terminates the child in need of services proceeding, the juvenile delinquency proceeding, or the paternity proceeding.

As added by P.L. 164-1999, SEC.2.

IC 31-30-1-13

Jurisdiction of child custody proceeding in paternity proceeding

Sec. 13. (a) Subject to subsection (b), a court having jurisdiction under IC 31-14 of a child custody proceeding in a paternity proceeding has concurrent original jurisdiction with another juvenile court for the purpose of modifying custody of a child who is under the jurisdiction of the other juvenile court because:

- (1) the child is the subject of a child in need of services proceeding; or
- (2) the child is the subject of a juvenile delinquency proceeding that does not involve an act described under IC 31-37-1-2.

(b) Whenever the court having child custody jurisdiction under IC 31-14 in a paternity proceeding modifies child custody as provided by this section, the modification is effective only when the juvenile court with jurisdiction over the child in need of services proceeding or juvenile delinquency proceeding:

- (1) enters an order approving the child custody modification; or
- (2) terminates the child in need of services proceeding or the juvenile delinquency proceeding. *As added by P.L. 164-1999, SEC.3.*