

CHAPTER THIRTEEN

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CHAPTER THIRTEEN

POST DISPOSITION

I. POST-DISPOSITION COUNSEL

PRACTICE POINTERS:

Courts do not always advise juveniles at the conclusion of their dispositional hearings that they have a right to appeal or ask whether they wish to do so. Juveniles have a constitutional right to appeal. J.W. v. State, 113 N.E.3d 1202, 1204 (Ind. 2019). Under Indiana Code section 31-32-4-1, they are entitled to representation by counsel during delinquency proceedings, and the right to counsel during an appeal from the delinquency proceedings flows from that. See id. at 1208 (juveniles' right to counsel extends beyond delinquency proceedings to post-judgment proceedings). Because juveniles are not eligible to seek permission to file belated appeals under Ind. Post-Conviction Rule 2, Haluska v. State, 663 N.E.2d 1193, 1193-94 (Ind. Ct. App. 1996), it is important to timely discuss with juvenile clients whether they wish to appeal.

If defense counsel remains appointed post-disposition, it is important to remain in touch with the child/client and to receive copies of any reports submitted from the caregivers and/or treatment facilities. If the goals of the placement or treatment are not being met or if the child is not succeeding in placement, it may be wise to file a motion to modify disposition to force the treatment provider to supply appropriate services, move the child to a different facility, or discharge the child.

If defense counsel does not remain appointed post-disposition, and if the child/client was placed in the Department of Correction by the juvenile court, in some cases the State Public Defender Agency will enter an appearance for the limited purpose of filing and litigating a Trial Rule 60(B) motion.

II. CASE PLAN

The case plan requirement only applies to a delinquent child if the child is placed in an out-of-home residence or facility that is not a secure detention facility. Ind. Code 31-37-19-1.5(a) and Ind. Code 31-37-22-4.5(a).

A. PROBATION DEPARTMENT MUST COMPLETE CASE PLAN WITHIN 60 DAYS

The probation department, after negotiating with the child's parent, guardian, or custodian, and any child representatives selected by the child and approved by the child's probation officer under Ind. Code 31-37-19-1.7, shall complete the child's case plan not later than sixty (60) days after the date of the child's first placement that the probation department requests to be paid for by the department. Ind. Code 31-37-19-1.5(b) and Ind. Code 31-37-22-4.5(b).

B. PARTICIPATION IN DEVELOPMENT OF CASE PLAN

1. Caretaker of Child, Child's Representatives and Probation Department

Pursuant to Ind. Code 31-37-19-1.5(e) and Ind. Code 31-37-22-4.5(e), each caretaker of a child, the child's representatives selected by the child and approved by the child's probation officer under Ind. Code 31-37-1.7, and the probation department shall cooperate in the development of the case plan for the child. The probation department

shall discuss with at least one (1) foster parent or other caretaker of a child the role of the substitute caretaker or facility regarding the following:

- (1) Rehabilitation of the child and the child's parents, guardians, and custodians.
- (2) Visitation arrangements.
- (3) Services required to meet the special needs of the child.

2. Selection of Child's Representative

a. Criteria for child's selection

Pursuant to Ind. Code 31-37-19-1.7(b), the child may select not more than two (2) child representatives to represent the child in the development of the child's case plan or transitional services plan. A child representative selected under this section:

- (1) Must be:
 - (A) At least eighteen (18) years of age; and
 - (B) A member of the case planning team;
- (2) May not be a foster parent of or caseworker for the child; and
- (3) Must be approved by the child's probation officer.

b. Child's advisor and advocate

Pursuant to Ind. Code 31-37-19-1.7(c), the child may select one (1) of the child representatives who is a member of the child's case planning team to also be the child's advisor and, as necessary, advocate, with respect to the application of the reasonable and prudent parent standard to the child.

c. Probation approval

Pursuant to Ind. Code 31-37-19-1.7(d), the probation officer may reject an individual selected by a child to be a member of the case planning team at any time if the probation officer has good cause to believe that the individual would not act in the best interests of the child.

3. Child's Participation

a. Must consult with child fourteen (14) years of age or older

Pursuant to Ind. Code 31-37-19-1.7(a), for a child who is at least fourteen (14) years of age, the probation officer shall consult with the child in the development of the child's case plan or transitional services plan.

b. Child's inability to participate

Pursuant to Ind. Code 31-37-19-1.7(a), if the probation officer determines that the child is unable to participate effectively in the development of a case plan or transitional services plan due to a physical, mental, emotional, or intellectual disability, the probation officer may excuse the child from this requirement by

documenting in the plan the reasons for the child's inability to participate in the development of the applicable plan.

c. Child's refusal to participate

Pursuant to Ind. Code 31-37-19-1.7(a), if the child refuses to participate in the development of the applicable plan for reasons other than a psychical, mental emotional, or intellectual disability, the probation officer shall record the refusal and document efforts made to obtain the child's input or participation in the development of the applicable plan.

C. CASE PLAN CONTENTS

Pursuant to Ind. Code 31-37-19-1.5(d) and Ind. Code 31-37-22-4.5(d), a child's case plan must be in a form prescribed by the department that meets the specifications set by 45 CFR 1356.21, as amended. The case plan must include a description and discussion of the following:

- (1) A permanency plan for the child and an estimated date for achieving the goal of the plan. Another planned permanent living arrangement may not be the permanency plan for a child who is less than sixteen (16) years of age.
- (2) The appropriate placement for the child based on the child's special needs and best interests.
- (3) The least restrictive family-like setting that is close to the home of the child's parent, custodian, or guardian if out-of-home placement is implemented or recommended, including consideration of possible placement with any suitable or willing relative, before considering other out-of-home placements for the child.
- (4) Family services recommended for the child, parent, guardian, or custodian.
- (5) Efforts already made to provide family services to the child, parent, guardian, or custodian.
- (6) Efforts that will be made to provide family services that are ordered by the court.
- (7) A plan for ensuring the educational stability of the child while in foster care that includes assurances that the:
 - (A) Placement of the child in foster care considers the appropriateness of the current educational setting of the child and the proximity to the school where the child is presently enrolled; and
 - (B) Department has coordinated with local educational agencies to ensure:
 - (i) The child remains in the school where the child is enrolled at the time of removal; or
 - (ii) Immediate, appropriate enrollment of the child in a different school if remaining in the same school is not in the best interests of the child.
- (8) Any age-appropriate activities that the child is interested in pursuing.
- (9) If the case plan is for a child in foster care who is at least fourteen (14) years of age, the following:
 - (A) A document that describes the rights of the child with respect to:

- (i) Education, health, visitation, and court participation;
 - (ii) The right to be provided with the child's medical documents and other medical information; and
 - (iii) The right to stay safe and avoid exploitation.
- (B) A signed acknowledgement by the child that the:
- (i) That the child has been provided with a copy of the document described in clause (A); and
 - (ii) Rights contained in the document have been explained to the individual in an age appropriate manner.

PRACTICE POINTER: The Indian Child Welfare Act, 25 U.S.C.A. § 1901 *et seq.*, provides heightened protections for Native American children involved in proceedings during which they might be removed from their family homes. ICWA does not apply to delinquency proceedings involving acts that would be crimes, had the child been an adult, but does apply to juvenile status offenses under Ind. Code chap. 31-37-2. The Indiana Department of Child Services has a written policy explaining its administration of ICWA. The policy is found at <https://www.in.gov/dcs/files/2.12.pdf>. If your client is an "Indian Child" as defined in ICWA, you should ensure that this is known to any appropriate agency involved in the preparation of your client's case plan.

D. DISTRIBUTION OF CASE PLAN

A copy of the completed case plan shall be sent to the department, to the child's parent, guardian, or custodian, and any child representatives selected by the child and approved by the child's probation officer under Ind. Code 31-37-19-1.7, and to an agency having the legal responsibility or authorization to care for, treat, or supervise the child not later than ten (10) days after the plan's completion. Ind. Code 31-37-19-1.5(c) and Ind. Code 31-37-22-4.5(c).

E. CASE PLAN MUST BE REVIEWED AND UPDATED EVERY 180 DAYS

The case plan must be reviewed and updated by the probation department at least once every one hundred eighty (180) days. Ind. Code 31-37-19-1.5(f) and Ind. Code 31-37-22-4.5(f).

III. PROGRESS REPORT

See also information in Section V(C) concerning progress report requirements for dispositional and jurisdiction review hearings

A. COURT MAY ORDER PROGRESS REPORT AT ANY TIME

At any time after the date of an original dispositional decree, the juvenile court may order the probation department to file a report on the progress made in implementing the decree. Ind. Code 31-37-20-1.

B. COURT MAY CONSIDER MODIFICATION BASED ON PROGRESS REPORT

If, after reviewing the progress report, the juvenile court seeks to consider modification of the dispositional decree, the court shall proceed under Ind. Code 31-37-22 [modification of dispositional decree]. Ind. Code 31-37-20-1.

IV. IYAS REENTRY ASSESSMENT TOOL

The Indiana Youth Assessment System (“IYAS”) was implemented on October 1, 2010, as an evidenced-base tool to measure the child’s risk and need factors during supervision and to ascertain the appropriate allocation of resources and programs. The IYAS was developed at the Center for Criminal Justice Research at the University of Cincinnati. A similar tool has been used in Ohio. The use of assessment tools was endorsed in Malenchik v. State, 928 N.E.2d 564 (Ind. 2010).

There are various IYAS tools that must be administered along the path of a case, including prior to reentry following a placement out of the home. The interview tool and accompanying guide is available through the Indiana Public Defender Council at <http://www.in.gov/ipdc>. An overview of the IYAS history and process is available at. Additional information including policies and a validation report can be found at <https://www.in.gov/courts/iocs/files/prob-risk-iyas-2011.pdf>.

The probation officer who administers the IYAS must be certified by completing a training and passing an examination. <https://www.in.gov/courts/iocs/files/prob-risk-iyas-iras-user-certification-2011.pdf>.

V. REVIEW HEARINGS -- DISPOSITIONAL DECREE AND JURISDICTION

A. DISPOSITIONAL DECREE REVIEW HEARING

1. Frequency

a. Periodic Review Hearing Must Be Held Every Twelve (12) Months

Pursuant to Ind. Code 31-37-20-2(a), the court shall hold a formal hearing:

(1) Every twelve (12) months after:

(A) The date of the original dispositional decree; or

(B) A delinquent child was removed from the child’s parent, guardian, or custodian; Whichever occurs first; or

(2) More often if ordered by the juvenile court.

b. Periodic Review Hearing May Be Held Every Six (6) Months Or More Frequently

A review of the dispositional decree will be held at least every six (6) months, or more often, if ordered by the court. Ind. Code 31-37-20-2(c).

2. Periodic Review Hearing Procedure and Findings

a. Court’s considerations at review hearings

Pursuant to Ind. Code 31-37-20-2(b), the court, in making the court’s determination as to whether the dispositional order should be modified and whether the current placement is in the best interest of the child, may consider the following:

(1) The services that have been provided or offered to a parent, guardian, or custodian to facilitate a reunion.

- (2) The extent to which the parent, guardian, or custodian has enhanced the ability to fulfill parental obligations.
- (3) The extent to which the parent, guardian, or custodian has visited the child, including the reasons for infrequent visitation.
- (4) The extent to which the parent, guardian, or custodian has cooperated with the probation department.
- (5) The child's recovery from any injuries suffered before removal.
- (6) Whether additional services are required for the child or the child's parent, guardian, or custodian, and, if so, the nature of the services.
- (7) The extent to which the child has been rehabilitated.

b. Court's findings after review hearing

(1) Permanency plan

At the review hearing, the court shall determine whether or not the probation department has made reasonable efforts to finalize a permanency plan for the child, if required under Ind. Code 31-37-19-1.5 [out-of-home residence or facility that is not a secure detention facility]. Ind. Code 31-37-20-2(c).

(2) Whether modification necessary and if placement is in best interest of child

The court shall determine whether the dispositional decree should be modified and whether the present placement is in the best interest of the child. Ind. Code 31-37-20-2(b).

(3) Discharge if objectives of dispositional decree are met

When the juvenile court finds that the objectives of the dispositional decree have been met, the court shall discharge the child and the child's parent, guardian, or custodian. Ind. Code 31-37-20-7.

B. JURISDICTION REVIEW HEARING ("PERMANENCY" HEARING)

1. Frequency of Hearing

a. Continuing jurisdiction hearing must be held every eighteen (18) months

Pursuant to Ind. Code 31-37-20-3(a), the court shall hold a formal hearing on the question of continued jurisdiction:

(1) Every eighteen (18) months after:

- (A) The date of the original dispositional decree; or
- (B) A delinquent child has been removed from the child's parent, guardian, or custodian;

whichever comes first; or

(2) More often if ordered by the juvenile court.

b. Jurisdictional review of dispositional decree must be held every twelve (12) months

A jurisdictional review of the dispositional decree, including a review of the child's permanency plan, if required under Ind. Code 31-37-19-1.5 [out-of-home residence or facility that is not a secure detention facility], shall be held at least once every twelve (12) months. Ind. Code 31-37-20-3(d).

2. Permanency Roundtable

The department shall refer a child's permanency plan to a permanency roundtable before a jurisdictional review under Ind. Code 31-37-20-3(d). The permanency roundtable may make recommendations regarding a permanency plan, and the recommendations must be included in a report under Ind. Code 31-37-20-4 [progress report]. Ind. Code 31-37-20-3(e).

PRACTICE POINTER – The permanency roundtable may only be crucial for those rare delinquency cases where the child cannot return to the home of a parent, guardian, or custodian, although under the statute, the roundtable must be conducted for every child prior to a permanency hearing.

PRACTICE POINTER – The permanency roundtable recommendation is non-binding on the court. There is no statutory requirement that the court be influenced by the recommendation.

PRACTICE POINTER – The participants and procedures of the permanency roundtable established through the Judicial Center can be found at <https://www.in.gov/courts/iocs/files/Juvenile-Delinquency-Permanency-Roundtable-Protocol.pdf>. Counsel should ensure that the child has a voice concerning the long-term permanency plan for the child. At probation's discretion, the child's attorney may be included in the meeting. Probation is to share the roundtable recommendations with the parties, including the child and his or her attorney.

3. State Has Burden of Proving Continuing Jurisdiction Is Necessary

The state must show that jurisdiction should continue by proving that the objectives of the dispositional decree have not been accomplished and that a continuation of the decree with or without modifications has a probability of success. Ind. Code 31-37-20-3(b).

4. Court's Findings after Jurisdiction Hearing

Pursuant to Ind. Code 31-37-20-3(c), if the state does not sustain the state's burden for continued jurisdiction, the court may:

- (1) Authorize a petition for termination of the parent-child relationship; or
- (2) Discharge the child or the child's parent, guardian, or custodian.

C. PROGRESS REPORTS

1. Probation Shall Prepare Progress Report

Before a [disposition review or jurisdiction review] hearing under Ind. Code 31-37-20-2 or Ind. Code 31-37-20-3, the probation department shall prepare a report in accordance with Ind. Code 31-37-21 on the progress made in implementing the dispositional decree. Ind. Code 31-37-20-4 and Ind. Code 31-37-21-1(a).

a. Content of progress report

The probation department shall prepare a report on the progress made in implementing the dispositional decree, including the progress made in rehabilitating the child, preventing placement out-of-home, reuniting the family, or finalizing another permanency plan as approved by the court. Ind. Code 31-37-21-1(a).

A report under Ind. Code 31-37-20-4 shall also include recommendations from the permanency roundtable under Ind. Code 31-37-20-3. Ind. Code 31-37-20-4.

b. Foster family must be consulted

Before preparing a progress report, the probation department shall consult a foster parent of the child about the child's progress made while in the foster parent's care. Ind. Code 31-37-21-1(b).

c. If modification of dispositional decree is recommended, certain content and request for formal hearing required

If modification of the dispositional decree is recommended, the probation department shall prepare a modification report containing information required by Ind. Code 31-37-17 [pre-dispositional report contents] and request a formal court hearing. Ind. Code 31-37-21-1(c).

2. Distribution of State's Report

A report prepared by the State for a disposition review or jurisdiction review hearing shall be made available to the child, and the child's parent, foster parent, guardian, guardian ad litem, custodian, court appointed special advocate, or any other person who is entitled to receive notice under Ind. Code 31-37-20-4.5 within a reasonable time after the report's presentation to the court or before the hearing. Ind. Code 31-37-21-2(a).

a. Court may determine that report should not be distributed to certain persons

Pursuant to Ind. Code 31-37-21-2(b), if the court determines on the record that the State's report contains information that should not be released to any person who is entitled to receive a report, the court is not required to make the report available to the person as required under Ind. Code 31-37-21-2(a). However, the court shall provide a copy of the report to the following:

- (1) Each attorney or guardian ad litem representing the child.
- (2) Each attorney representing the child's parent, guardian, or custodian.
- (3) A court appointed special advocate.

b. Court may provide factual summary to certain persons

The court may also provide a factual summary of the report to the child or the child's parent, foster parent, guardian, or custodian. Ind. Code 31-37-21-2(c).

3. Admissibility of Reports

Any report may be admitted into evidence to the extent that the report contains evidence of probative value even if the evidence would otherwise be excluded. Ind. Code 31-37-21-3(a).

a. Factual summary may be admitted instead of progress report

If a report contains information that should not be released to the child or the child's parent, guardian, custodian, or any other person entitled to receive a report under Ind. Code 31-37-21-2, a factual summary of the report may be admitted. Ind. Code 31-37-21-3(b).

b. Opportunity to Controvert Report

Pursuant to Ind. Code 31-37-21-3(c), the following shall be given a fair opportunity to controvert any part of the report admitted into evidence:

- (1) The child.
- (2) The child's parent, guardian, or custodian.
- (3) The person representing the interests of the state.
- (4) Any other person who is entitled to receive a report under Ind. Code 31-37-21-2.

D. NOTICE OF REVIEW AND/OR JURISDICTION HEARING

1. Notice to Parties

Ind. Code 31-37-20-4.5 does not exempt the probation department from sending a notice of the review to each party to the delinquency proceeding. Ind. Code 31-37-20-4.5(c).

2. Notice of Hearing

Pursuant to Ind. Code 31-37-20-4.5(a), at least ten (10) days before a disposition review or jurisdiction review hearing [Ind. Code 31-37-20-2 or Ind. Code 31-37-20-3], the probation department shall send notice of the hearing to each of the following:

- (1) The child's parent, guardian, or custodian.
- (2) An attorney who has entered an appearance on behalf of the child's parent, guardian, or custodian.
- (3) The child or an attorney who has entered an appearance on behalf of the child.
- (4) A prospective adoptive parent named in a petition for adoption of the child filed under Ind. Code 31-19-2 if:
 - (A) Each consent to adoption of the child that is required under Ind. Code 31-19-9-1 has been executed in the form and manner required by Ind. Code 31-19-9 and filed with the local office;

(B) The court having jurisdiction in the adoption case has determined under any applicable provision of Ind. Code 31-19-9 that consent to adoption is not required from a parent, guardian, or custodian; or

(C) A petition to terminate the parent-child relationship between the child and any parent who has not executed a written consent to adoption under Ind. Code 31-19-9-2 has been filed under Ind. Code 31-35 [termination of parental rights] and is pending.

5) Any other person who:

(A) The probation department has knowledge is currently providing care for the child; and

(B) Is not required to be licensed under Ind. Code 12-17.2 [day care facilities] or Ind. Code 31-27 [residential childcare facilities] to provide care for the child.

(6) Any other suitable relative.

3. Failure to Provide Notice

The court shall continue the hearing if, at the time set for hearing, the probation department has not provided the court with a signed verification that any person required to be notified under this section has been notified in the manner stated in the verification, unless the person appears for the hearing. Ind. Code 31-37-20-4.5(d).

E. RIGHT TO BE HEARD AND TO MAKE RECOMMENDATIONS

Pursuant to Ind. Code 31-37-20-4.5(b), the court shall provide a person described in Ind. Code 31-37-20-4.5(a) [see above] an opportunity to be heard and to make any recommendations to the court in a hearing under Ind. Code 31-37-20-2 or -3 [disposition review or jurisdiction review hearing]. The right to be heard and to make recommendations under this subsection includes:

(1) The right of a person described in Ind. Code 31-37-20-4.5(a) to submit a written statement to the court that, if served upon all parties to the delinquency proceeding and the other persons described in Ind. Code 31-37-20-4.5(a), may be made part of the court record; and

(2) The right to present oral testimony to the court and cross-examine any of the witnesses at the hearing.

F. REVIEW OF CHILD'S LEGAL SETTLEMENT

The juvenile court shall review the court's findings under Ind. Code 31-37-19-26 [determination of legal settlement during dispositional hearing] and determine whether circumstances have changed the legal settlement of the child. Ind. Code 31-37-20-6(b).

1. If Legal Settlement Has Changed

If the child's legal settlement has changed, the court shall issue an order that modifies the court's findings of fact concerning the legal settlement of the child. Ind. Code 31-37-20-6(c).

2. If Court Did Not Previously Make Findings on Legal Settlement

If the court has not previously made findings of fact concerning legal settlement, pursuant to Ind. Code 31-37-19-26, the court shall make the appropriate findings in the court's order entered for the review hearing. Ind. Code 31-37-20-6(d).

3. Legal Settlement Findings Reported to Impacted School Corporations

The juvenile court shall comply with the reporting requirements under Ind. Code 20-26-11-9 [notice to the impacted school corporations] concerning the legal settlement of the child. Ind. Code 31-37-20-6(e).

G. INDIVIDUALS LEAVING FOSTER CARE

1. Provisions of Documents

Pursuant to Ind. Code 31-37-20-8, before an individual who is at least eighteen (18) years of age and has been in foster care for at least six (6) months, leaves foster care, the probation officer shall provide the individual the following documents that are applicable to the individual:

- (1) An official or certified copy of the individual's United States birth certificate.
- (2) A Social Security card issued for the individual by the Social Security Administration.
- (3) Insurance records for the individual.
- (4) A copy of the individual's medical records.
- (5) The individual's driver's license or identification card issued by the state.
- (6) Information concerning the individual's enrollment in the Medicaid program.
- (7) A foster care verification form.

VI. MODIFICATION OF DISPOSITIONAL DECREE

A. MOTION FOR MODIFICATION

Pursuant to Ind. Code 31-37-22-1, while the juvenile court retains jurisdiction under Ind. Code 31-30-2 [continuing jurisdiction], the juvenile court may modify any dispositional decree:

- (1) Upon the juvenile court's own motion;
- (2) Upon the motion of:
 - (A) The child;
 - (B) The child's parent, guardian, custodian, or guardian ad litem;
 - (C) The probation officer; or
 - (D) The prosecuting attorney; or
- (3) Upon the motion of any person providing services to the child or to the child's parent, guardian, or custodian under a decree of the court.

- (b) Upon receipt of a motion under section 11 of this chapter, the juvenile court shall reinstate its jurisdiction to conduct a hearing and issue an appropriate order in accordance with section 11 of this chapter.

The juvenile court does not have continuing jurisdiction under Ind. Code 31-30-2, and therefore, may refuse to entertain a modification motion, once the court award guardianship of the child to the Department of Correction, except for limited circumstances set forth in

Ind. Code 31-30-2-1(b), (c), and (h), unless and until the court reinstates jurisdiction over the child after his or her release from DOC. Ind. Code 31-30-2-1(a)(2); 31-30-2-3.

Ind. Code 31-30-2-1(h) directs the juvenile court to reinstate its jurisdiction to conduct a hearing and issue an appropriate order in accordance with Ind. Code 31-37-22-11, regardless of whether the court awarded guardianship of the child to the DOC, if the court receives a motion pursuant to Ind. Code 31-37-22-11. Ind. Code 31-22-11 pertains to trafficked children.

Ind. Code 31-37-22-11 provides:

- (a) As used in this section, “trafficked child” means a child who was the victim of human trafficking (IC 35-42-3.5), regardless of whether the person who committed the human trafficking offense was charged, tried, or convicted. The term includes a person who is now an adult.
- (b) Upon the written motion of a trafficked child, or any person acting on behalf of a trafficked child, the court that adjudicated the trafficked child a delinquent child shall vacate the adjudication issued with respect to the trafficked child, if the movant proves by a preponderance of the evidence that:
 - (1) the child was a trafficked child at the time the child performed the delinquent act that resulted in the adjudication;
 - (2) the delinquent act did not result in bodily injury to another person; and
 - (3) at the time the child committed the delinquent act, the child was:
 - (A) coerced by; or
 - (B) under the control of; another person.
- (c) Before vacating an adjudication under subsection (b), the court shall:
 - (1) forward a copy of the motion to the prosecuting attorney; and
 - (2) conduct a hearing at which the prosecuting attorney and the movant are entitled to be heard.

PRACTICE POINTER – Ind. Code 31-37-22-11 is relatively new. Courts and probation officers may have limited experience with issues surrounding trafficked children. Look carefully into any concerns that a juvenile client may be a “trafficked child” entitled to the heightened protections afforded by Ind. Code 31-37-22-11.

1. Probation Revocation Treated As a Modification of Original Disposition

Matter of L.J.M., 473 N.E.2d 637, 639 (Ind. Ct. App. 1985) (Proceedings to revoke child's probation must be treated as a proceeding to modify the original disposition order.).

A.C. v. State, 144 N.E.3d 810, 813 (Ind. Ct. App. 2020) ("Any change in a juvenile's disposition order, including revoking his probation, is accomplished by modification of the original order pursuant to [Indiana Code] Section 31-37-22-1 (2017) ...").

2. Modification Cannot Be Used To Micromanage Placement

K.L.N. v. State, 881 N.E.2d 39, 45 (Ind. Ct. App. 2008) (Juveniles should not be treated more harshly than adult offenders. An adult committed to DOC is subject to the rules and regulations of the DOC, which specifies and implements consequences for behavior. The juvenile court was not empowered to impose additional, judicially created punishment for the child's failure to follow the rules of placement.).

3. Application of Rules of Evidence/Admissibility of Hearsay

Under Indiana Evidence Rule 101(c)(2), the Indiana Evidence Rules do not apply to "preliminary juvenile matters."

Cases have recognized that hearsay is admissible in dispositional hearings and subsequent hearings to modify a disposition:

N.L. v. State, 989 N.E.2d 773, 779 (Ind. 2013) ("[H]earsay is admissible in dispositional hearings, and subsequent hearings to modify a disposition, because "[e]xcluding hearsay evidence ... would in many cases disserve the child by excluding relevant information that might support a less restrictive disposition." (Quoting Matter of L.J.M., 473 N.E.2d 637, 642-43 (Ind. Ct. App. 1985)).

But see Reyes v. State, 868 N.E.2d 438, 441-42 (Ind. 2007) (Hearsay evidence may not be admitted willy nilly in a probation revocation hearing. The court adopts the substantial trustworthiness test where the trial court must evaluate the reliability of the hearsay evidence.).

When a juvenile hearing is an evidentiary hearing, the rules of evidence apply. N.L. v. State, 989 N.E.2d 773, 779 (Ind. 2013) (Some juvenile matters "are of such gravity that formal evidentiary hearings are required. For example, 'fact-finding hearings' under Indiana Code 31-37-13 are held to determine whether the allegations of a delinquency petition are true—analogueous to a criminal trial. At evidentiary hearings, the rules of evidence apply to the same extent as in a criminal case ...").

4. State Must Present Evidence of Alleged Violations

K.A. v. State, 938 N.E.2d 1272, 1275 (Ind. Ct. App. 2010) (When modification is predicated on an alleged probation violation, principles of fundamental fairness require that the State present evidence of the allegation.).

M.T. v. State, 928 N.E.2d 266, 271 (Ind. Ct. App. 2010) (Fundamental fairness requires evidence be presented of the wrongdoing on which the modification is premised.).

C.B. v. State, 988 N.E.2d 379, 385 n.4 (Ind. Ct. App. 2013) (*citing M.T.* with approval).

C.S. v. State, 817 N.E.2d 1279, 1281-82 (Ind. Ct. App. 2004) (State failed to provide adequate evidence concerning the drug test procedure and results such that the State failed to meet its burden that a probation violation had occurred.).

PRACTICE POINTER – Although N.L. v. State, 989 N.E.2d 773, 779 (Ind. 2013), says that hearsay is admissible during modification hearings, given that evidentiary hearings are required to address alleged probation violations before the court may modify the juvenile’s disposition based upon the probation violation, it could be argued that juvenile probation revocation/modification hearings are the sort of evidentiary hearings/fact-finding hearings during which the Indiana Evidence Rules apply.

5. Meaningful Opportunity to Be Heard

C.B. v. State, 988 N.E.2d 379, 383 (Ind. Ct. App. 2013) (If trial court is to consider whether juvenile violated his conditional agreement by committing another offense, the trial court may not rely solely on the probable cause affidavit for the new alleged offense, but must make its own independent determination of probable cause. The juvenile must be given a meaningful opportunity to be heard and challenge the finding of probable cause).

See also Matter of E.T., 152 N.E.3d 634, 640 (Ind. Ct. App. 2020), *trans. denied* (“It is well settled that ‘[t]he Due Process Clause of the United States Constitution prohibits state action that deprives a person of life, liberty or property without a fair proceeding.’ Lawson v. Marion Cty. Office of Family & Children, 835 N.E.2d 577, 579 (Ind. Ct. App. 2005). Due process is essentially ‘the opportunity to be heard at a meaningful time and in a meaningful manner.’ Matthews v. Eldridge, 424 U.S. 319, 333 ... (1976).”).

B. NOTICE OF MODIFICATION HEARING

1. Who Receives Notice

a. Notice for emergency motion for modification of child’s residence

Pursuant to Ind. Code 31-37-22-3(a), if the modification motion requests an emergency change in the child’s residence, the juvenile court may issue a temporary order. However, the probation officer shall then give notice to the persons affected and the juvenile court shall hold a hearing on the question if requested.

b. Notice for all other modification requests

If the motion requests any modification other than an emergency change in the child’s residence, the probation officer shall give notice to the person affected and the juvenile court shall hold a hearing on the question. Ind. Code 31-37-22-3(b).

2. Procedure for Notice

Notice of any modification hearing shall be given in accordance with Ind. Code 31-37-18-1.3 [notice of dispositional hearing]. Ind. Code 31-37-22-4.

C. MODIFICATION REPORT

If a hearing is required, Ind. Code 31-37-17 [pre-dispositional report] governs the preparation and use of a modification report. The report shall be prepared if the state or any other person other than the child or the child's parent, guardian, guardian ad litem, or custodian is requesting the modification. Ind. Code 31-37-22-4.

D. PROCEDURES FOR MODIFICATION HEARING IF DCS WILL BE REQUIRED TO PAY FOR ANY PROGRAMS OR SERVICES

The procedures specified in Ind. Code 31-37-17-1.4 [review of pre-dispositional report by DCS] and Ind. Code 31-37-18-9 [dispositional hearing findings and appeal by DCS] apply to any modification of a dispositional decree that requires or would require payment by the department, under Ind. Code 31-40-1 [juvenile law funding] for any of the costs of programs, placements, or services for or on behalf of the child. Ind. Code 31-37-22-3(c).

E. DISPOSITIONAL ALTERNATIVES FOLLOWING MODIFICATION HEARING

PRACTICE POINTER -- Usually, the dispositional alternatives available for a modified dispositional decree are the same as for the original dispositional decree.

1. If Modification Motion Requests an Emergency Change of Child's Residence

If the motion requests an emergency change in the child's residence, the juvenile court may issue a temporary order. Ind. Code 31-37-22-3(a).

2. Contempt Power

a. Contempt power may not be used to circumvent statutory limitation of term of detention

K.L.N. v. State, 881 N.E.2d 39, 45-46 (Ind. Ct. App. 2008) (The juvenile court lacked authority to use contempt to lengthen the child's 120-day sentence, which is maximum sentence for those who are seventeen or older at time of the offense.).

Further, a contempt sanction may not be punitive; the juvenile court must provide a genuine means for the juvenile to purge the contempt. K.L.N. v. State, 881 N.E.2d 39, 43 (Ind. Ct. App. 2008).

b. Contempt power may not be used to circumvent statutory requirements concerning commitment of status offenders to DOC

B.L. v. State, 688 N.E.2d 1311, 1314-15 (Ind. Ct. App. 1997) (The court may not use its inherent contempt power to commit a status offender to the DOC for willful violation of a court order. The court must follow procedures established by the Indiana Code to modify a dispositional decree.).

T.T. v. State, 439 N.E.2d 655, 656-657 (Ind. Ct. App. 1982) (Wardship to DOC for contempt in not following order to attend school was reversed. While criminal contempt is any act that manifests a disrespect for and defiance of a court, it is not a criminal offense.).

3. Child May Not Be Returned To DOC Unless Child Violated A Modified Dispositional Decree

If a child has been in the custody of the department of correction under the juvenile court's original dispositional decree, the juvenile court may not award guardianship of the child back to the department unless the juvenile court holds a hearing and finds that the child violated a modified dispositional decree. Ind. Code 31-37-22-2.

F. SPECIAL DISTRIBUTION OF MODIFICATION ORDER FOR CHILD WHO RECEIVED MEDICAID

Pursuant to Ind. Code 31-37-22-9, if:

- (1) A juvenile court modifies its disposition order under this chapter;
- (2) The child named in the order received Medicaid before disposition as indicated by the pre-dispositional report; and
- (3) The juvenile court previously placed or intends to place the child in:
 - (A) A juvenile detention facility; or
 - (B) A secure facility, not including a facility licensed as a child caring institution under Ind. Code 31-27;

the court shall immediately provide a copy of the modified dispositional decree to the division of family resources.

VII. PAROLE

For a complete overview of juvenile delinquency parole, see Ind. Code 11-13-6.

A. LENGTH OF PAROLE

An offender released on parole remains on parole until he reaches twenty-one (21) years of age, unless his parole is revoked, or he is discharged before that time by the department. Ind. Code 11-13-6-4(a).

B. DISCHARGE FROM PAROLE AND RELEASE FROM DOC

The department may discharge him from his commitment any time after his release on parole and shall discharge him when he reaches twenty-one (21) years of age. Ind. Code 11-13-6-4(a).

1. Unconditional Discharge if Not on Parole

An offender who is not on parole may be unconditionally discharged by the department from his commitment at any time and shall be unconditionally discharged from his commitment upon reaching twenty-one (21) years of age. Ind. Code 11-13-6-4(b).

2. Court Notified of Discharge

Upon discharge of an offender from his commitment under this section, the department shall certify the discharge to the clerk of the committing court. Upon receipt of the certification, the clerk shall make an entry on the record of judgment that the commitment has been satisfied. Ind. Code 11-13-6-4(c).

C. PAROLE SUPERVISION

Pursuant to Ind. Code 11-13-6-5, the department shall supervise and assist offenders on parole. Its duties in this regard include:

- (1) Establishing methods and procedures in the administration of parole, including investigation, supervision, workloads, recordkeeping, and reporting;
- (2) Assisting offenders in making parole release plans;
- (3) Providing employment counseling and assistance in job and residential placement;
- (4) Providing family and individual counseling and treatment placement;
- (5) Providing financial counseling;
- (6) Providing vocational and educational counseling and placement;
- (7) Supervising and assisting out of state parolees accepted under an interstate compact; and
- (8) Cooperating with public and private agencies and with individual citizens concerned with the treatment or welfare of offenders and assisting the offender in obtaining services from these agencies and citizens.

VIII. REASSUMPTION OF JURISDICTION AFTER DEPARTMENT OF CORRECTIONS

A. NOTIFICATION OF RELEASE

1. DOC to Provide Notification of Release

Pursuant to Ind. Code 31-30-2-2, if the department of correction is awarded guardianship of the child under Ind. Code 31-30-2-1(a)(2), the department of correction shall notify the court awarding the guardianship when the department will release the child from the department's custody.

2. Notification at Least Ten Days Before Release

Pursuant to Ind. Code 31-30-2-2, the notification must be sent to the court at least ten (10) days before the child's release.

B. SUA SPONTE REINSTATEMENT OF COURT'S JURISDICTION

Pursuant to Ind. Code 31-30-2-3, after receiving notification of release from department of correction, a juvenile court may within thirty (30) days after notification, on the court's own motion, reinstate jurisdiction over the child for the purpose of modifying under Ind. Code 31-34-23 [CHINS modification of dispositional decree] or Ind. Code 31-37-22 [delinquency modification of dispositional decree] the court's original dispositional decree.

In A.R. v. State, 196 N.E.3d 289, 295 (Ind. Ct. App. 2022), the Court of Appeals held in a split decision that it is not impermissible for the court to reinstate its jurisdiction where the prosecutor filed a superfluous motion for the court to reinstate jurisdiction. As of the date of this update, transfer was pending in A.R.

C. PETITION FOR REINSTATEMENT OF COURT’S JURISDICTION

1. DOC Petition and Programs

Pursuant to Ind. Code 31-30-2-4(a), the department of correction may petition the court to reinstate the court’s jurisdiction over the child and the child’s parent, guardian, or custodian to modification the court’s decree under Ind. Code 31-34-23 [CHINS modification of dispositional decree] or Ind. Code 31-37-22 [delinquency modification of dispositional decree] or order the child’s parent, guardian or custodian to participate in programs operated by or through the department of correction.

2. Collaborative Care

Pursuant to Ind. Code 31-30-2-4(b), the department of correction may petition the court to reinstate the court’s jurisdiction over an older youth for purposes of Ind. Code 31-28-5.8 [collaborative care], including an older youth who previously was a child in need of services who is eligible for collaborative care under Ind. Code 31-28-5.8.

D. SATISFACTION OF RESTITUTION ORDER

Pursuant to Ind. Code 31-30-2-5, if any part of an order of restitution remains unpaid at the time a child is released by the department of correction, the court may reinstate jurisdiction over the child and place the child under the supervision of the probation department until the restitution order is satisfied.

IX. SEX OFFENDER REGISTRY

See Ind. Code 11-8-8 for the complete list of relevant statutes

PRACTICE POINTER: Counsel must explain to the child and their parent, guardian, or custodian that the child’s picture, address, sex-related adjudications, and other identifying information will be placed on a website that is available to the public and the possible future criminal convictions that may result if the child does not maintain the registry process.

PRACTICE POINTER: With the implementation of the federal Adam Walsh Child Protection and Safety Act, the sex offender registry will continue to be a dynamic area of the law. Check current statutes routinely.

A. INCLUDED OFFENSES

Pursuant to Ind. Code 11-8-8-5(a) except as provided in Ind. Code 11-8-8-22, as used in this chapter, “sex or violent offender” means a person convicted of any of the following offenses:

- (1) Rape (Ind. Code 35-42-4-1).
- (2) Criminal deviate conduct (Ind. Code 35-42-4-2) (before its repeal).

- (3) Child molesting (Ind. Code 35-42-4-3).
- (4) Child exploitation (Ind. Code 35-42-4-4(b) or Ind. Code 35-42-4-4(c)).
- (5) Vicarious sexual gratification (including performing sexual conduct in the presence of a minor) (Ind. Code 35-42-4-5).
- (6) Child solicitation (Ind. Code 35-42-4-6).
- (7) Child seduction (Ind. Code 35-42-4-7).
- (8) Sexual misconduct with a minor as a Class A, Class B, or Class C felony (for a crime committed before July 1, 2014) or a Level 1, Level 2, Level 4, or Level 5 felony (for a crime committed after June 30, 2014) (Ind. Code 35-42-4-9), unless:
 - (A) The person is convicted of sexual misconduct with a minor as a Class C felony (for a crime committed before July 1, 2014) or a Level 5 felony (for a crime committed after June 30, 2014);
 - (B) The person is not more than:
 - (i) Four (4) years older than the victim if the offense was committed after June 30, 2007; or
 - (ii) Five (5) years older than the victim if the offense was committed before July 1, 2007; and
 - (C) The sentencing court finds that the person should not be required to register as a sex offender.
- (9) Incest (Ind. Code 35-46-1-3).
- (10) Sexual battery (Ind. Code 35-42-4-8).
- (11) Kidnapping (Ind. Code 35-42-3-2), if the victim is less than eighteen (18) years of age, and the person who kidnapped the victim is not the victim's parent or guardian.
- (12) Criminal confinement (Ind. Code 35-42-3-3), if the victim is less than eighteen (18) years of age, and the person who confined or removed the victim is not the victim's parent or guardian.
- (13) Possession of child pornography (Ind. Code 35-42-4-4(d) or Ind. Code 35-42-4-4(e)).
- (14) Promoting prostitution (Ind. Code 35-45-4-4) as a Class B felony (for a crime committed before July 1, 2014) or a Level 4 felony (for a crime committed after June 30, 2014).
- (15) Promotion of human sexual trafficking (Ind. Code 35-42-3.5-1.1).
- (16) Promotion of child sexual trafficking (Ind. Code 35-42-3.5-1.2(a)).
- (17) Promotion of sexual trafficking of a younger child (Ind. Code 35-42-3.5-1.2(c)).
- (18) Child sexual trafficking (Ind. Code 35-42-3.5-1.3).
- (19) Human trafficking under Ind. Code 35-42-3.5-1.4 if the victim is less than eighteen (18) years of age.
- (20) Murder (Ind. Code 35-42-1-1).
- (21) Voluntary manslaughter (Ind. Code 35-42-1-3).
- (22) Sexual misconduct by a service provider with a detained or supervised child (Ind. Code 33-44.1-3-10(c)).

B. COURT SHALL REQUIRE SEX OFFENDER REGISTRATION IF CHILD IS DETERMINED TO BE A SEX OR VIOLENT OFFENDER

The juvenile court shall after a determination under Ind. Code 11-8-8-5 [sex or violent offender] require a child who is adjudicated a delinquent child for an act that would be an offense described in Ind. Code 11-8-8-5 [sex or violent offender] if committed by an adult to register with the local law enforcement authority under Ind. Code 11-8-8 [sex offender registration]. Ind. Code 31-37-19-5(b)(1).

1. Juvenile Court Has Jurisdiction to Make Sex Offender Registry Determination

C.E.K. II v. State, 928 N.E.2d 258, 259-60 (Ind. Ct. App. 2010), *trans. denied*. (Juvenile court had subject matter jurisdiction to determine whether the child must register as a sex offender.). *See also T.W. v. State*, 953 N.E.2d 1120, 1122 (Ind. Ct. App. 2011).

2. Registry Does Not Conflict with Rehabilitative Purpose of Juvenile Code

K.J.P. v. State, 724 N.E.2d 612, 615 (Ind. Ct. App. 2000) (The burdens that accompany the registry do “not rise to the level of punishment” and do not constitute an additional penalty. The goal of the registry statute is to provide protection to the public and does not conflict with the rehabilitative goals of the juvenile code.).

3. Term “Sex or Violent Offender” Applies To Juveniles

Pursuant to Ind. Code 11-8-8-5(b), the term “sex or violent offender” includes:

- (1) A person who is required to register as a sex or violent offender in any jurisdiction; and
- (2) A child who has committed a delinquent act and who:
 - (A) Is at least fourteen (14) years of age;
 - (B) Is on probation, is on parole, is discharged from a facility by the department of correction, is discharged from a secure private facility (as defined in Ind. Code 31-9-2-115), or is discharged from a juvenile detention facility as a result of an adjudication as a delinquent child for an act that would be an offense described in subsection (a) if committed by an adult; and
 - (C) Is found by a court by clear and convincing evidence to be likely to repeat an act that would be an offense described in subsection (a) if committed by an adult.

In October 2022, the Court of Appeals held, in a split decision, that under Ind. Code 11-8-8-5(b)(2) the child need only be at least fourteen years old at the time the registration requirement is imposed. Registration may be required for children who committed a requisite act while under the age of fourteen. A.R. v. State, 196 N.E.3d 289, 297 (Ind. Ct. App. 2022). As of the date of this update, transfer was pending in A.R.

C. FULL EVIDENTIARY HEARING REQUIRED TO DETERMINE LIKELIHOOD OF RECIDIVISM

B.J.B. v. State, 805 N.E.2d 870, 872 (Ind. Ct. App. 2004) (Before a child who has been adjudicated a delinquent child for committing a sex offense may be ordered to publicly

register as a sex offender, a court must hold an evidentiary hearing and determine, by clear and convincing evidence, that the child is likely to commit another sex offense.).

1. Court cannot order registration in initial dispositional decree

R.E.I. v. State, 885 N.E.2d 93, 96 (Ind. Ct. App. 2008) (The juvenile court had jurisdiction to hold sex offender registry evidentiary hearing following R.E.I.'s release from detention. A juvenile court may not order a juvenile to be placed on the registry until after his release from detention and an evidentiary hearing is required.).

2. Evidentiary hearing must be held after child's release from detention/treatment

In re G.B., 709 N.E.2d 352, 355-56 (Ind. Ct. App. 1999) (When a child is placed in a secure facility, a sex offender registry hearing can only be conducted after the child has been released from the facility so that children who have been rehabilitated by virtue of their detention are not required to register as sex offenders. Order requiring child to register as sex offender was reversed because the court held the registry hearing before child was discharged from DOC.).

K.J.P. v. State, 724 N.E.2d 612, 615 (Ind. Ct. App. 2000) (sex offender registry hearing was not premature where child, still on probation, had been released from detention but was still receiving counseling.).

J.B. v. State, 819 N.E.2d 137, 140 (Ind. Ct. App. 2004) (Child considered a discharged by DOC as sex offender under Ind. Code 5-2-12-4(b)(2) even though child did not spend time at DOC facility due to being over age 18.).

J.C.C. v. State, 897 N.E.2d 931, 934 (Ind. 2008) (The legislative intent behind [Ind. Code 11-8-8-5(b)] is to hold the sex offender registration determination in abeyance so that the juvenile has the opportunity to be rehabilitated during detention.).

J.D.M. v. State, 68 N.E.3d 1073 (Ind. 2017) (juvenile court erred in conducting sex offender registry hearings while juvenile remained in non-secure rehabilitative treatment center; juvenile had not been released and placed on probation, and a possibility of continued rehabilitation existed).

3. State bears burden by clear and convincing evidence

In re Z.H., 850 N.E.2d 933, 940 (Ind. Ct. App. 2006) (The State bore the burden of proving, by clear and convincing evidence that the juvenile was likely to commit another sex offense.).

R.G. v. State, 793 N.E.2d 238, 240 (Ind. Ct. App. 2003) (Clear and convincing evidence is the standard to determine if the elements of the Sex Offender Registry Act have been met.).

J.C.C. v. State, 897 N.E.2d 931, 934 (Ind. 2008) (The legislature dictated the heightened burden of proof of clear and convincing evidence in recognition of the serious social consequences of sexual offender registration.).

4. Court must consider expert testimony of likelihood of recidivism

In making a determination under Ind. Code 11-8-8-5(b)(2)(C), the court shall consider expert testimony concerning whether a child is likely to repeat an act that would be an offense described in Ind. Code 11-8-8-5(a) if committed by an adult. Ind. Code 11-8-8-5(c).

T.W. v. State, 953 N.E.2d 1120, 1124 (Ind. Ct. App. 2011) (It would be impossible for a trial court to carry out the statutory mandate to consider expert testimony if it could not, because of the statutory psychologist-patient privilege, receive testimony from psychologists or other mental health experts who have examined the juvenile.).

B.W. v. State, 909 N.E.2d 471, 478-79 (Ind. Ct. App. 2009) (Trial court did not err in relying on treatment provider's testimony regarding child's pre-treatment risk assessment as well as the improved risk of recidivism at discharge when making the determination to place the child on the registry. Completion of the program does not automatically equate to the requisite level of rehabilitation.).

State v. K.H., 860 N.E.2d 1284, 1287 (Ind. Ct. App. 2007) (*citing B.J.B. v. State*, 805 N.E.2d 870, 874 (Ind. Ct. App. 2004)) (The focus of the inquiry, with respect to a juvenile who has been released from a secure facility, is whether the treatment received in that facility has resulted in the juvenile's rehabilitation. If that is the case, there cannot be clear and convincing evidence that the juvenile is likely to re-offend and the juvenile cannot be placed on the sex offender registry.).

A.O. v. State, 837 N.E.2d 219, 221-22 (Ind. Ct. App. 2005) (Prosecutor's arguments that the child should be placed on sex offender registry did not consist of evidence that child was likely to re-offend; order to register as a sex offender reversed.).

M.L.H. v. State, 799 N.E.2d 1, 3 (Ind. Ct. App. 2003), *trans. denied* (Evidence of four experts testifying that the child was at a high risk to re-offend was sufficient for sex offender registry order.).

R.G. v. State, 793 N.E.2d 238, 240-41 (Ind. Ct. App. 2003) (Evidence of expert opinion that the child had "demonstrated pedophilic interests" and was at high risk for recidivism was sufficient, despite evidence from two therapists that child was not likely to re-offend, for sex offender registry order.).

J.D.M. v. State, 68 N.E.3d 1073, 1080 n.3 (Ind. 2017) (describing the requirement that the juvenile court consider expert testimony before ordering a juvenile to register as a sex offender as a "mandate").

PRACTICE POINTER: Current research shows that, in general, the recidivism rate for juvenile offenders is low. Consult with the State's expert prior to the hearing to determine what information she will use during her testimony and to determine if an expert on behalf of the juvenile will be necessary.

D. REGISTRY REQUIREMENT IS NOT PART OF DISPOSITION

1. Registry Requirement Does Not Constitute Additional Penalty or Punishment

K.J.P. v. State, 724 N.E.2d 612, 615 (Ind. Ct. App. 2000), *transfer denied* (citing In re G.B., 709 N.E.2d 352, 355 (Ind. Ct. App. 1999)). (Requiring a juvenile court to register as a sex offender does “not constitute an additional penalty” and did not conflict with the rehabilitative purposes of the juvenile code.).

C.E.K., II v. State, 928 N.E.2d 258, 260 (Ind. Ct. App. 2010) (Rejected claim that K.J.P. v. State, 724 N.E.2d 612 (Ind. Ct. App. 2000) was overruled by Wallace v. State, 905 N.E.2d 371 (Ind. 2009), which held that requiring an adult offender to register as a sex offender constitutes an additional punishment in violation of the ban of *ex post facto* laws found in the Indiana Constitution where the offender had served a sentence before the Indiana Sex Offender Registration Act took effect.).

T.W. v. State, 953 N.E.2d 1120, 1123 (Ind. Ct. App. 2011) (The sex offender registry is directly related to the protection of the public. To the extent that requiring a juvenile delinquent to register as a sex offender may be “punitive” in some ways, the policy and purposes behind the Juvenile Code do not bar imposition of such a requirement.).

2. Registration Requirement Independent Of Plea Agreement Terms

In re G.B., 709 N.E.2d 352, 354 (Ind. Ct. App. 1999) (The fact that the child’s plea agreement did not specifically refer to the sex offender registry is irrelevant; the court must place a child on the registry if evidence, at time of his release, supports a finding that he is likely to be a repeat sex offender.).