

Dual Status in Indiana Code

IC 31-41ARTICLE 41. DUAL STATUS

[Ch. 1.](#)Definitions

[Ch. 2.](#)Dual Status Assessment Team

[Ch. 3.](#)Determination of Lead Agency

IC 31-41-1Chapter 1. Definitions

[31-41-1-1](#)Application of definitions

[31-41-1-2](#)"Dual status child"

[31-41-1-3](#)"Dual status screening tool"

[31-41-1-4](#)"Dual status assessment"

[31-41-1-5](#)"Dual status assessment team"

IC 31-41-1-1Application of definitions

Sec. 1. The definitions in this chapter apply throughout this article.

As added by P.L.66-2015, SEC.17.

IC 31-41-1-2"Dual status child"

Sec. 2. "Dual status child" means:

- (1) a child who is alleged to be or is presently adjudicated to be a child in need of services under [IC 31-34-10](#) or [IC 31-34-11](#) and is alleged to be or is presently adjudicated to be a delinquent child under [IC 31-37-12](#) or [IC 31-37-13](#);
- (2) a child who is presently named in an informal adjustment under [IC 31-34-8](#) and who is adjudicated a delinquent child under [IC 31-37-12](#) or [IC 31-37-13](#);
- (3) a child who is presently named in an informal adjustment under [IC 31-37-9](#) and who is adjudicated to be a child in need of services under [IC 31-34-10](#) or [IC 31-34-11](#);
- (4) a child who:
 - (A) has been previously adjudicated to be a child in need of services under [IC 31-34-10](#) or [IC 31-34-11](#); or
 - (B) was a participant in a program of informal adjustment under [IC 31-34-8](#);and who was under a wardship that had been terminated or was in a program of informal adjustment that had concluded before the current delinquency petition;
- (5) a child who was:
 - (A) previously adjudicated to be a delinquent child under [IC 31-37-12](#) or [IC 31-37-13](#) that was closed; and
 - (B) a participant in a program of informal adjustment under [IC 31-37-9](#) which was concluded prior to a child in need of services proceeding; and
- (6) a child:
 - (A) who is eligible for release from commitment of the department of correction;
 - (B) whose parent, guardian, or custodian:
 - (i) cannot be located; or
 - (ii) is unwilling to take custody of the child; and
 - (C) for whom the department of correction is requesting a modification of the dispositional decree under [IC 31-30-2-4](#).

As added by P.L.66-2015, SEC.17.

IC 31-41-1-3"Dual status screening tool"

Sec. 3. "Dual status screening tool" means a factual review of a child's status and history conducted by the case manager under [IC 31-34](#) or the probation officer under [IC 31-37](#) to determine whether a child meets the criteria for being a dual status child as defined by section 2 of this chapter.

As added by P.L.66-2015, SEC.17.

IC 31-41-1-4"Dual status assessment"

Sec. 4. "Dual status assessment" means a review by a dual status assessment team to assess a dual status child's:

- (1) status;
- (2) best interests;

- (3) need for services; and
- (4) level of needs, strengths, and risks of the child.

As added by P.L.66-2015, SEC.17. Amended by P.L.187-2015, SEC.35.

IC 31-41-1-5"Dual status assessment team"

Sec. 5. "Dual status assessment team" means a committee assembled and convened by a juvenile court to recommend the proper legal course for a dual status child.

As added by P.L.66-2015, SEC.17.

IC 31-41-2Chapter 2. Dual Status Assessment Team

- [31-41-2-1](#)Juvenile court dual status child determination
- [31-41-2-2](#)Dual status assessment team
- [31-41-2-3](#)Dual status team meetings; considerations
- [31-41-2-4](#)Statements communicated in a dual status assessment team meeting
- [31-41-2-5](#)Dual status team considerations
- [31-41-2-6](#)Dual status team reports; recommendations

IC 31-41-2-1Juvenile court dual status child determination

Sec. 1. After a juvenile court has determined that a child is a dual status child, the juvenile court may refer the child to be assessed by a dual status assessment team after:

- (1) considering the reports provided pursuant to [IC 31-34-7-2](#) or [IC 31-37-8-5](#); or
- (2) making a determination pursuant to [IC 31-34-10-2](#)(e) or [IC 31-37-12-2](#)(e).

However, all children identified as a dual status child under [IC 31-41-1-2](#)(1) through [IC 31-41-1-2](#)(3), or [IC 31-41-1-2](#)(6), shall be referred to the dual status assessment team.

As added by P.L.66-2015, SEC.17. Amended by P.L.157-2021, SEC.6.

IC 31-41-2-2Dual status assessment team

Sec. 2. (a) The dual status assessment team shall include:

- (1) if the child has a department of child services case manager, the case manager;
- (2) if the child does not have a department of child services case manager, a representative of the department of child services appointed by the local department of child services director;
- (3) if the child has a probation officer, that probation officer;
- (4) if the child does not have a probation officer, a probation officer appointed by the court; and
- (5) a meeting facilitator, who may be a member of the dual status assessment team described in subdivisions (1) through (4) or may be a person appointed by the juvenile court.

(b) The dual status assessment team may include:

- (1) the child if the juvenile court deems the child is age appropriate;
- (2) the child's public defender or attorney;
- (3) the child's parent, guardian, or custodian;
- (4) the child's parent's attorney;
- (5) a prosecuting attorney;
- (6) the attorney for the department;
- (7) a court appointed special advocate or a guardian at litem;
- (8) a representative from the department of correction;
- (9) a school representative;
- (10) an educator;
- (11) a therapist;
- (12) the child's foster parent; and
- (13) a service provider appointed by the team or the juvenile court.

As added by P.L.66-2015, SEC.17.

IC 31-41-2-3Dual status team meetings; considerations

Sec. 3. (a) The dual status assessment team shall meet within ten (10) days of the date ordered by the juvenile court.

(b) The dual status assessment team shall be convened by the facilitator described in section 2(a)(5) of this chapter.

(c) The dual status assessment team shall consider:

- (1) any allegations of abuse or neglect suffered by the child; and
- (2) any allegation that the child is a delinquent child under [IC 31-37-1-1](#) or [IC 31-37-2-1](#).

As added by P.L.66-2015, SEC.17. Amended by P.L.149-2016, SEC.83.

IC 31-41-2-4Statements communicated in a dual status assessment team meeting

Sec. 4. All statements communicated in a dual status assessment team meeting are:

- (1) not admissible as evidence against the child in any judicial proceeding; and
- (2) not discoverable in any litigation.

As added by P.L.66-2015, SEC.17.

IC 31-41-2-5Dual status team considerations

Sec. 5. The dual status assessment team shall consider the child's best interests and well-being, including:

- (1) the child's mental health, including any diagnosis;
- (2) the child's school records, including attendance and achievement level;
- (3) the child's statements;
- (4) the statements of the child's parent, guardian, or custodian;
- (5) the impact of the child's behavior on any victim;
- (6) the safety of the community;
- (7) the child's needs, strengths, and risks;
- (8) the need for a parent participation plan;
- (9) the efficacy and availability of services and community providers;
- (10) whether appropriate supervision of the child can be achieved by the dismissal of a delinquency adjudication in deference to a child in need of services adjudication;
- (11) whether appropriate supervision of the child can be achieved by combining a delinquency adjudication or informal adjustment with a child in need of services petition;
- (12) the child's placement needs;
- (13) restorative justice practices that may be appropriate;
- (14) whether a child in need of services petition or informal adjustment should be filed or dismissed;
- (15) whether a delinquency petition or informal adjustment should be filed or dismissed;
- (16) the availability of coordinated services regardless of whether the child is adjudicated to be a child in need of services or a delinquent child;
- (17) whether the team recommends the exercise of dual adjudication and the lead agency to provide supervision of the child; and
- (18) any other information considered appropriate by the team.

As added by P.L.66-2015, SEC.17. Amended by P.L.149-2016, SEC.84.

IC 31-41-2-6Dual status team reports; recommendations

Sec. 6. After a dual status assessment team has met to assess a child, the team shall:

- (1) designate a member to prepare the written report for the juvenile court; and
- (2) provide recommendations, including:
 - (A) whether the court should proceed with an additional initial hearing regarding the petition alleging the child is in need of services and dismiss a pending delinquency petition or informal adjustment at the conclusion of a child in need of services adjudication;
 - (B) whether the court should proceed with an additional initial hearing regarding a petition alleging that the child is a delinquent child under [IC 31-37-1](#) and dismiss a pending child in need of services petition or informal adjustment upon conclusion of the delinquency adjudication;
 - (C) whether the court should proceed with an additional initial hearing and adjudication or informal adjustment concerning a child in need of services petition and a delinquency petition under [IC 31-37-1](#);
 - (D) what agency should be the lead agency in a child's supervision; and
 - (E) any other matters relevant to the child's best interests, including any services to be included in a dispositional decree.

If the probation department of the juvenile court is designated as the lead agency under [IC 31-41-3](#), any recommendations made by the dual status assessment team under subdivision (2) must be consistent with the funding provisions of [IC 31-37](#).

As added by P.L.66-2015, SEC.17. Amended by P.L.187-2015, SEC.35.

IC 31-41-3 Chapter 3. Determination of Lead Agency

[31-41-3-1](#)Determination of lead agency

IC 31-41-3-1 Determination of lead agency

Sec. 1. (a) If a child has been adjudicated to be a:

- (1) child in need of services under [IC 31-34](#); and
- (2) delinquent child under [IC 31-37](#);

unless the court adopts a contrary recommendation by a dual status assessment team, the court making the later adjudication may determine if the department of child services or the probation department of the juvenile court shall be the lead agency that will supervise the dual status child.

(b) In making a determination under subsection (a), the court shall consider:

- (1) the child's social and family situation;
- (2) the child's experiences with the department of child services;
- (3) the child's prior adjudications of delinquency;
- (4) the recommendations of the dual status assessment team; and
- (5) the needs, strengths, and risks of the child.

(c) The court may require the department of child services and the probation department of the juvenile court to work together in the supervision of a dual status child and for the purposes of filing a modification under [IC 31-34-23](#) or [IC 31-37-22](#). If the probation department of the juvenile court is designated as the lead agency under this chapter, any recommendations made by the probation department under this subsection must be consistent with the funding provisions of [IC 31-37](#).

(d) A court may order any service for a dual status child under this chapter that is available:

- (1) to a child in need of services under [IC 31-34](#); or
- (2) to a delinquent child under [IC 31-37](#).

As added by P.L.66-2015, SEC.17. Amended by P.L.187-2015, SEC.35.