

	<b>INDIANA DEPARTMENT OF CHILD SERVICES CHILD WELFARE POLICY</b>	
	<b>Chapter 4: Assessment</b>	<b>Effective Date:</b> July 1, 2018
	<b>Section 28: Involuntary Removals</b>	<b>Version:</b> 7

<b>STATEMENTS OF PURPOSE</b>
------------------------------

The Indiana Department of Child Services (DCS) will remove a child from his or her parent, guardian, or custodian if:

1. A reasonable person would believe that the child's physical or mental condition is seriously impaired or seriously endangered due to injury by the act or omission of the child's parent, guardian or custodian; or
2. The child's physical or mental condition is seriously impaired or seriously endangered as a result of the inability, refusal, or neglect of the child's parent, guardian or custodian to supply the child with necessary food, clothing, shelter, medical care, education or supervision; and
3. The coercive intervention of the court is needed (taken) to protect the child.

The Family Case Manager (FCM) will obtain Supervisory approval prior to removing any child from their parent, guardian, or custodian.

DCS will obtain a written order from the court prior to removing a child, unless emergency removal is necessary to protect the immediate health and safety of the child. Emergency removal may be necessary if all of the following factors are present:

1. It appears that the child's physical or mental condition is 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.

**NOTE:** In an Indian Child Welfare Act (ICWA) case, or potential ICWA case, the emergency removal only exists if a child alleged to be Indian child is in imminent physical danger.

DCS will not remove a child without a Law Enforcement Agency (LEA) present, unless:

1. Emergency removal is necessary; and
2. LEA has been contacted, and considering the immediate concern for the safety or well-being of the child, is unable to be present during the removal.

If DCS removes a child without a court order and/or LEA present, DCS will document the reasons why such measures were necessary. See 2015 ICWA Guidelines for required ICWA documentation <http://www.bia.gov/cs/groups/public/documents/text/idc1-029637.pdf>.

DCS will secure a detention hearing within 48 hours of detention of the child, excluding Saturdays, Sundays, and certain legal holidays.

DCS will notify the following adult relatives within 30 days of a child being removed from his or her parent, guardian, or custodian: paternal and/or maternal grandparents, aunts, uncles, siblings of the child involved, parent of a child's sibling if the parent has legal custody of the sibling and any other relatives suggested by the child or parent. See separate policy, [4.0 Diligent Search](#) for further information. See [Related Information](#) for definition of sibling.

DCS will complete a Child and Adolescent Needs and Strengths (CANS) Assessment on all children who are removed from the parent, guardian, or custodian. See separate policy, [5.19 Child and Adolescent Needs and Strengths \(CANS\) Assessment](#).

The DCS local office will not delay or deny placement of the child in an available resource home based on the race, color, or national origin of the child or resource parent when a child who is believed to be a foreign national or an Indian child is removed due to an immediate safety concern.

DCS will notify the appropriate foreign consulate or embassy in the United States (U.S.), of the child's country of origin, as soon as possible, when DCS determines that a child believed to be a foreign national has been detained. In addition, DCS will notify the foreign consulate or embassy when necessary if the detained child's parents are foreign nationals. See [Practice Guidance](#) and separate policy, 2.22 International and Cultural Affairs.

DCS will notify the Indian child's parents, Indian custodian, and the tribe, within the designated timeframe as mandated by the ICWA whenever there is a pending legal action regarding the parental rights involving a child who is or is believed to be a member, or eligible for membership in an Indian tribe. See separate policy [2.12 Indian Child Welfare Act \(ICWA\)](#)

DCS will facilitate a Child and Family Team (CFT) meeting when it has been determined that the child is at imminent risk of removal.

If all identified CFT members are not available prior to the removal, the FCM will use all other available contacts to engage and prep the members for the CFT process.

**Note:** The CFT composition may look different in the assessment phase. Over time, the functioning of the team and identification of other team members may occur.

DCS will gather information necessary to determine eligibility for federal funding when a child is removed from the home. See [Related Information](#).

#### Code References:

1. [IC 31-33-8-8: Immediate removal of a child](#)
2. [IC 31-32-3-10.5 Civil immunity for placement of a child on a waiting list for guardian ad litem or court appointed special advocate services](#)
3. [IC 31-34-2-3: Taking a child into custody without court order](#)
4. [IC 31-34-2-6 Documentation by person taking child into custody without court order; forms](#)
5. [IC 31-34-4: Temporary placement of child taken into custody](#)
6. [IC 31-34-3-4.5 Procedures for notices to adult relatives and siblings](#)
7. [IC 31-34-3-4.7 Notice to the child's school](#)
8. [IC 31-9-2-107 \(b\) "Relative"](#)
9. [IC 34-30-2-134 Child abuse or neglect; reporting and assisting](#)
10. 42 USC 671 (a)(29) Notification of Parents of Siblings

## PROCEDURE

The FCM will:

1. Obtain supervisory approval prior to removal of any child from their parent, guardian, or custodian;
2. Obtain a court order authorizing the removal, unless emergency removal is necessary;
3. Request LEA presence at the removal;
4. Obtain information about the child in order to make the transition for the child as safe, and as safe as possible;
5. Prepare the child for removal;
6. Ask the question, "Is this an Indian child?". If the child is believed to be an Indian child, complete the [Indian Status Identification \(SF 55407\)](#) form and genogram with the family, forward the completed documents to the supervisor for review, who will then forward documents to the DCS Staff Attorney;
7. Provide the child's parent, guardian, or custodian the [Advisement of Legal Rights: Upon Taking a Custody of/Filing a Petition on Behalf of a Child Alleged to be a Child in Need of Services \(SF 47114\)](#) at the time of removal or notify the parent, guardian or custodian within two (2) hours of the child's detention, and provide them with the [Advisement of Legal Rights: Upon Taking a Custody of/Filing a Petition on Behalf of a Child Alleged to be a Child in Need of Services \(SF 47114\)](#) if they were not present at the time of removal;

**Note:** In ICWA cases, the DCS Staff Attorney will utilize the information from the [Indian Status Identification \(SF 55407\)](#) form and genogram to complete the ICWA notifications to the parent, Indian custodian, and Indian tribe in accordance with ICWA Guidelines.

8. Complete the form [Taking Custody of a Child Without a Verbal or Written Court Order: Description of Circumstances \(SF 49584\)](#) to document why the child was removed without a court order and/or without LEA presence, if such extreme measures were taken;
9. Notify the following adult relatives within 30 days of a child being removed from his or her parent, guardian, or custodian: paternal and/or maternal grandparents, aunts, uncles, siblings of the child involved, parent of a child's sibling if the parent has legal custody of the sibling and any other relatives suggested by the child or parent. See separate policy, [4.0 Diligent Search](#);
10. Notify the child's school of their removal, within 72 hours and ensure the school is aware of any safety measures needed;
11. Complete the [Consulate/Embassy Notification \(SF 55676\)](#) immediately when a foreign or dual national child is detained, or foreign nationality is identified, whichever comes first and send to the International and Cultural Affairs (ICA) liaison.

**Note:** A [Consulate/Embassy Notification \(SF 55676\)](#) must be completed for each child.

12. Complete the [Preliminary Inquiry](#) and submit it to the Supervisor for review;
13. Schedule a detention hearing. See separate policy, [6.1 Detention Hearing](#);
14. Ensure required language regarding Contrary to the Welfare/Best Interests of the child, Reasonable Efforts to Prevent Placement and Placement and Care responsibility to DCS or Active Efforts for ICWA cases (see [Related Information](#)) is included in the Detention/Initial court order;

15. Provide parent, guardian, or custodian with advance written notification of the detention hearing, using the [Notice of Hearing](#) form. See notification responsibilities for ICWA in policy [2.12 Indian Child Welfare Act \(ICWA\)](#);
16. File a Child In Need of Services (CHINS) petition; See separate policy, [6.2 Filing a CHINS Petition](#);
17. Coordinate and facilitate the CFT meeting. See separate policy, [5.7 Child and Family Team \(CFT\) Meetings](#); and
18. Complete a Permanency and Practice Support referral in KidTraks for ICA services if ICA needs are identified.

The Supervisor will:

1. Staff with the FCM and provide supervisory approval for removal of a child when it has been determined that the child cannot safely remain in the home;
2. Assist the FCM with any removal activities; and
3. Review the [Preliminary Inquiry](#) prior to the DCS Staff Attorney screening the [Preliminary Inquiry](#) and CHINS petition;

The DCS Staff Attorney will:

1. Review the [Preliminary Inquiry](#) prior to securing a Detention Hearing;
2. Email or Fax the [Consulate/Embassy Notification \(SF 55676\)](#) to the ICA liaison; and
3. Provide the ICWA notification to the child's parents, Indian custodian, and Indian tribe, within the mandated timeframe, and obtain confirmation of child's eligibility (or non-eligibility) for membership in a U.S. Federally Recognized tribe for all ICWA cases and potential ICWA cases.

The International and Cultural Affairs Liaison will:

1. Fax the [Consulate/Embassy Notification \(SF 55676\)](#) to the appropriate consulate or embassy of the child's country of origin; and
2. Serve as the liaison for DCS and each respective consulate or embassy in sharing information as allowed by law.

## PRACTICE GUIDANCE

### **Exploring Placement Options with the CFT**

CFT members may aid in determining the least restrictive, most appropriate placement option by providing information about non-custodial parents, appropriate relatives, and/or absent parents, as well as, by discussing priorities such as proximity of placement, placement of siblings, etc.

### **Composition of CFT During Assessment Phase**

During the assessment phase, the CFT composition will have a unique composition. The following considerations should be considered in adapting the CFT process during the assessment phase:

1. **A lengthy prep is not necessarily required when utilizing the CFT process during the assessment phase.** During the assessment phase, FCMs are gathering the same information that is covered during the "prep" for the CFT process. It is important to realize that Teaming is not necessarily an event, but a process of utilizing the basic Teaming, Engaging, Assessing, Planning and Intervening (TEAPI) skills that each FCM has learned.

2. **Some families may identify a limited support system during the assessment phase.** As a result there may only be 2-3 individuals at the meeting in addition to the representatives from DCS. In these situations, DCS may engage and team with the family to identify a goal of expanding their informal support system which would increase the CFT's membership. The key is to have a CFT of key individuals that may support the family after DCS involvement ends. DCS should always ask the question, "Is this an Indian Child?"
3. **The composition of the Team may look different in the assessment phase.** These meetings may lack the formality of CFT meetings held later in the case because there are no flip charts, snacks, or formal agenda. The focus of the meeting will be the same: the creation of a functioning CFT that may support the family so that well-informed decisions may be made to ensure the safety and well-being of the child involved.

### **Preparing the Child for Removal**

See related policy, [8.8 Preparing Child for Placement](#).

Prepare the child for separation and placement to the extent possible by:

1. Helping the child talk about feelings and concerns; don't minimize;
2. Accepting the feelings of the child;
3. Answering questions in a way the child comprehends;
4. Refraining from providing the child with false information. Do not provide answers unless you are certain; it is better to say "I don't know" than to provide false information. Do not say "everything will be fine;"
5. Checking with the child to see what he or she understands or is confused about. Ask the child to explain in his/her own words;
6. Eliciting the parent or guardian's help in giving permission to the child to leave and assuring the child of their continued love;
7. Taking familiar objects, i.e., clothes, toys, bottles, cups, music tapes, photos of the parent(s), guardian, or custodian(s), unless the home is the site of a contaminating controlled substance. See [Indiana Drug Endangered Child Response Protocol](#);
8. Giving the child permission to miss his/her family; and
9. Providing for physical, emotional, and cultural comfort.

### **Adoption and Foster Care Analysis and Reporting System (AFCARS)**

AFCARS requires that every child who is removed from the child's home must be reported. If a child is removed from his or her home more than 24 hours, the case needs to be entered into Management Gateway for Indiana's Kids (MaGIK).

### **Completing the Notification to Consulate or Embassy**

When completing the [Consulate/Embassy Notification \(SF 55676\)](#), it is imperative to have accurate information. If information is unknown the form should reflect that, FCMs should not submit a [Consulate/Embassy Notification \(SF 55676\)](#) with an assumed place of birth. If the place of birth is unknown, try to obtain the information by:

1. Reviewing the child's birth certificate;
2. Asking the parent what country the absent parent, guardian or custodian was deported to;
3. Contacting known relatives; and/or
4. Reviewing any identification paperwork obtained.

Do not contact Immigration and Customs Enforcement (ICE) to get obtain this information.

FCMs should attach copies of any case documents (court orders, identification documents, paternity orders, etc.) and any additional contact information they may have received when submitting the Notification to the Consulate or Embassy to ICA.

### **ICA Resources**

ICA information, such as several helpful documents and additional information on all services provided by ICA is available on the [Permanency and Practice Support Sharepoint](#). The Permanency and Practice Support SharePoint serves as a resource for FCMs and other DCS workers seeking information to help improve services to multicultural populations and families (immigrant, tribal, sensory-impaired, Lesbian, Gay, Bi-Sexual Transgender, Questioning (LGBTQ), Military) by honoring the diversity of cultures and perspectives constituting the Indiana child welfare population. An email inbox is available to obtain guidance from an ICA liaison, emails may be sent to [Internationalandculturalaffairs@dcs.in.gov](mailto:Internationalandculturalaffairs@dcs.in.gov). An example of a question that may be sent to the email inbox includes questions regarding service providers for interpreter services. Emergency situations that require immediate attention such as a safety concern should not be emailed to the inbox. In emergency situations, FCMs may email the ICA liaison directly and expect a response by the following day.

### **FORMS AND TOOLS**

1. [Taking Custody of a Child Without a Verbal or Written Court Order: Description of Circumstances \(SF 49584\)](#)
2. [Advisement of Legal Rights: Upon Taking a Custody of/Filing a Petition on Behalf of a Child Alleged to be a Child in Need of Services \(SF 47114\)](#)
3. [Notice of Hearing – Available in the Juvenile Justice Benchbook: Child in Need of Services](#)
4. [Notice to Relatives \(SF 55211\)](#)
5. [Consulate/Embassy Notification \(SF 55676\)](#)
6. [Preliminary Inquiry](#) – available in MaGIK
7. [Indian Status Identification \(SF 55407\)](#)

### **RELATED INFORMATION**

#### **Sibling**

1. A brother or sister by blood, half blood, or adoption; and
2. Any other individual who would be considered a sibling if parental rights had not been terminated.

#### **Active Efforts for ICWA**

According to the Bureau of Indian Affairs (BIA) ICWA Guidelines effective 2/25/2015, Active efforts are intended primarily to maintain and reunite an Indian child with his or her family or tribal community and constitute more than reasonable efforts as required by Title IV-E of the Social Security Act (42 U.S.C. 671(a)(15)). The BIA ICWA Guidelines provide the below as examples of Active efforts.

1. Engaging the Indian child, the Indian child's parents, the Indian child's extended family members, and the Indian child's custodian(s);
2. Taking steps necessary to keep siblings together;

3. Identifying appropriate services and helping the parents to overcome barriers, including actively assisting the parents in obtaining such services;
4. Identifying, notifying, and inviting representatives of the Indian child's tribe to participate;
5. Conducting or causing to be conducted a diligent search for the Indian child's extended family members for assistance and possible placement;
6. Taking into account the Indian child's tribe's prevailing social and cultural conditions and way of life, and requesting the assistance of representatives designated by the Indian child's tribe with substantial knowledge of the prevailing social and cultural standards;
7. Offering and employing all available and culturally appropriate family preservation strategies;
8. Completing a comprehensive assessment of the circumstances of the Indian child's family, with a focus on safe reunification as the most desirable goal;
9. Notifying and consulting with extended family members of the Indian child to provide family structure and support for the Indian child, to assure cultural connections, and to serve as placement resources for the Indian child;
10. Making arrangements to provide family interaction in the most natural setting that can ensure the Indian child's safety during any necessary removal;
11. Identifying community resources including housing, financial, transportation, mental health, substance abuse, and peer support services and actively assisting the Indian child's parents or extended family in utilizing and accessing those resources;
12. Monitoring progress and participation in services;
13. Providing consideration of alternative ways of addressing the needs of the Indian child's parents and extended family, if services do not exist or if existing services are not available;
14. Supporting regular visits and trial home visits of the Indian child during any period of removal, consistent with the need to ensure the safety of the child; and
15. Providing post-reunification services and monitoring.

### **Eligibility for Federal Funding**

A Title IV-E eligibility determination must be completed for every child that enters out-of-home care. In addition, a Title IV-E eligibility determination must be completed each time an out-of-home care episode begins. There are two (2) categories of Title IV-E eligibility criteria that impact a child's status:

1. Initial eligibility, and
2. Ongoing eligibility.

Title IV-E Eligibility is based on several factors. Chapter 15 Title IV-E Eligibility has additional information about the documentation needed for Title IV-E eligibility determinations for federal funding (Title IV-E foster care, Title IV-A Emergency Assistance, Title IV-E Waiver), which helps to cover the costs of the child's out-of-home care and DCS's administrative expenditures.

See separate policy [2.12 Indian Child Welfare Act \(ICWA\)](#) for information regarding IV-E involvement.

### **Foreign National**

Any person (adult or child) who is born outside of the United States and has not become a U.S. citizen.

### **Vienna Convention**

In compliance with the provisions of the Vienna Convention, DCS will contact the appropriate foreign consulate or embassy in the United States (U.S.) soon as possible after the detention of a foreign national child.

**Memorandum of Understanding (MOU) with the Mexican Consulates**

The MOU with the Mexican Consulates serving Indiana can be found on the [Permanency and Practice Support SharePoint](#). DCS will notify the Mexican Consulates of the detention of a child who is a Mexican National or whose parent(s) are Mexican Nationals.

Archived Legislation 6/30/19