

	INDIANA DEPARTMENT OF CHILD SERVICES CHILD WELFARE MANUAL	
	Chapter 4: Assessment	Effective Date: July 1, 2013
	Section 28: Involuntary Removals	Version: 5

POLICY [REVISED]

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.

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.

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 relatives within 30 days of a child being removed from his or her parent, guardian, or custodian: paternal and/or maternal grandparents, aunts, uncles, or adult siblings of the child(ren) involved, and any other relatives suggested by the child(ren) or parent. See separate policy, [4.0 Diligent Search](#).

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, [4.32 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 is removed due to an immediate safety concern.

[REVISED] 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 detained child's parents are foreign nationals.

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.

Code References

1. [IC 31-33-8-8: Immediate removal of a child](#)
2. [IC 31-34-2-3: Taking a child into custody without court order](#)
3. [IC 31-34-2-6: Documentation by person taking child into custody without court order: forms](#)
4. [IC 31-34-4: Temporary placement of child taken into custody](#)

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. To the extent the parent will cooperate, obtain information about the child in order to make the transition for the child as easy and as safe as possible;
5. Prepare the child for removal;
6. If the child's parent, guardian, or custodian was not present at the time of removal, notify the parent, guardian, custodian within two (2) hours of the child's detention, and provide the parent, guardian, or custodian with the [Advisement of Legal Rights: Upon Taking Custody of/Filing a Petition on Behalf of a Child Alleged to be a Child in Need of Services \(SF 47114\)](#);
7. Complete the form [Taking Custody of a Child Without a Verbal or Written Court Order: Description of Circumstances \(SF 49584/CW0018\)](#) to document why the child was removed without a court order and/or without LEA presence, if such extreme measures were taken;

8. Notify the following relatives within 30 days of a child being removed from his or her parent, guardian, or custodian: paternal and/or maternal grandparents, aunts, uncles, or adult siblings of the child(ren) involved, and any other relatives suggested by the child(ren) or parent. See separate policy, [4.0 Diligent Search](#);
9. Complete the [Notification to the Consulate or Embassy](#) form when it is believed that a foreign national child has been detained and give it to the DCS Local Office Attorney;
10. Complete the Intake Officer's Report of [Preliminary Inquiry and Assessment \(Investigation\) \(PIR1070108\)](#) and send it to the Supervisor for review;
11. Schedule a detention hearing. See separate policy, [6.1 Detention Hearing](#);
12. At a detention hearing, Initial court order language must include Contrary to the Welfare/Best Interests of the child, Reasonable Efforts to Prevent Placement and Placement and Care responsibility to DCS;
13. Provide parent, guardian, or custodian with advance written notification of the detention hearing, using the [Notice of Hearing](#) form;
14. File a Child In Need of Services (CHINS) petition; See separate policy, [6.2 Filing a CHINS Petition](#); and
15. Coordinate and implement the CFT meeting. See separate policy, [5.7 Child and Family Team \(CFT\) Meetings](#).

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 and Assessment \(Investigation\) \(PIR1070108\)](#) prior to the DCS Local Office Attorney screening the [Preliminary Inquiry and Assessment \(Investigation\) \(PIR1070108\)](#) and CHINS petition;

[REVISED] The DCS Local Office Attorney will:

1. Screen the [Preliminary Inquiry and Assessment \(Investigation\) \(PIR1070108\)](#) prior to securing a Detention Hearing; and
2. Email or Fax the [Notification to the Consulate or Embassy](#) form to the International and Cultural Affairs Liaison.

The International and Cultural Affairs Liaison will:

1. Fax the [Notification to the Consulate or Embassy](#) form 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 can 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 can support the family after DCS involvement ends.
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 can support the family so that well-informed decisions can be made to ensure the safety and well being of the child(ren) involved.

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. Therefore, even 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).

FORMS AND TOOLS

1. [Taking Custody of a Child Without a Verbal or Written Court Order: Description of Circumstances \(SF 49584/CW0018\)](#)
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 Form \(NOT100902LTR\)](#)
5. [Notification to the Consulate or Embassy Form \(CON091001EMB\)](#)
6. [Preliminary Inquiry and Assessment \(Investigation\) \(PIR1070108\)](#)

RELATED INFORMATION

Preparing the Child for Removal

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

Prepare the child for separation to the extent possible and for coping with placement after it occurs.

1. Help the child talk about feelings and concerns; don’t minimize;

2. Accept the feelings of the child;
3. Answer questions in a way the child comprehends;
4. 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. Check 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. Elicit the parent or guardian's help in giving permission to the child to leave and assuring the child of their continued love;
7. Take 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 meth lab. See [Indiana Drug Endangered Child Response Protocol](#);
8. Give the child permission to miss his/her family; and
9. Provide for physical and emotional comfort.

Eligibility for Federal Funding

The following should be documented in the case file and in MaGIK:

1. The most accurate and up to date information concerning household members;
2. The relationships of household members to the removed child;
3. Household members income and resources in the month of removal;
4. Each parent's place of residence in the month of removal;
5. Each parent's employment status; and
6. Any physical or mental illnesses that would prevent either parent from providing care to the child should be documented.

The FCM is responsible for determining which members of the household are included in the Assistance Group and which persons should be designated as the child's Specified Relative in MaGIK. This information is needed to make an eligibility determination for federal funding (Title IV-E foster care, Title IV-A Emergency Assistance, Title IV-E Waiver) to cover the costs of the child's substitute care and DCS's administrative expenditures.

Assistance Group

Individual or group of individuals whose income, resources, needs and/or expenses are considered together in the Title IV-E eligibility determination; based on living arrangement and relationship.

Specified Relative

Any blood, adoptive or step relative, including preceding generations up to the fifth degree of kinship (and any spouse of these persons, even after death or divorce) from whom a child is legally removed.

Specified relative relationships include:

1. Mother and Stepmother or Father and Stepfather;
2. Grandmother or Grandfather (Great, Great-great, Great-great-great);
3. Sister or Brother (Step, In-law);
4. Aunt or Uncle (Great, up to Great-great-great-great, In-law);
5. Niece or Nephew; and
6. First Cousin and Children of First Cousin.

[NEW] 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.

[NEW] Memorandum of Understanding (MOU) with the Mexican Consulates

According to 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 6-30-15 Legislation