BENCHBOOK
JUVENILE JUSTICE

for
Indiana Judges

Children in Need of Services

Including 1999 Indiana
General Assembly Amendments

Sixth Edition 1999

First Edition 1978
Second Edition 1980
Third Edition 1984
Fourth Edition 1993
Fifth Edition 1997

Prepared by the Juvenile Benchbook Committee of the
Judicial Conference of Indiana

Published by the Indiana Judicial Center
115 West Washington Street, Suite 1075
Indianapolis, Indiana 46204-3417

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FOREWORD

The procedures and forms presented in this Benchbook were compiled and prepared by the Juvenile Benchbook Committee from the statutes and procedural rules of the State of Indiana, and from the practice of the judges and lawyers in Indiana's Juvenile courts.

This is not an official publication of the Supreme Court of Indiana and it should not be considered an authoritative statement of Indiana's law; judges and lawyers utilizing this Benchbook should always consult current statutory and case law for changes. These forms, dialogues and procedural guides have not been approved or endorsed by the Supreme Court of Indiana; however, these documents are offered as examples which judges have found to be helpful in the practice of juvenile law from their years of experience on the bench.

This is the Sixth Edition of the Juvenile CHINS Benchbook. Much of juvenile law in Indiana, and in the United States, has changed since promulgation of the previous edition of this Benchbook. The Juvenile Court Judge's task of keeping current with the changes in juvenile law can, at times, seem daunting. It is the Committee's hope that this complete revision of the Juvenile CHINS Benchbook, incorporating all statutory and case law changes in the area of Indiana Law relating to Children in Need of Services through August, 1999 will assist Indiana Juvenile Court Judges in meeting the increasing demands placed upon them each day.

My thanks and appreciation go to each of the members of the Benchbook Committee. Their hard work and innovative ideas have resulted in a first-rate product for their colleagues upon the bench. Our work was made easier through the professional assistance of Ms. Anne Jordan and the entire staff of the Indiana Judicial Center; without their assistance, this project could not have been completed.

Your comments and suggestions for future changes or improvements will help this Committee maintain and improve its content. Please take a moment to complete and return the enclosed Customer Survey form. If you have suggestions for items of improvement or change for future revisions of this Benchbook, let us know by completing the form and returning it to the Committee, in care of the Indiana Judicial Center.

Christopher L. Burnham, Chair
Juvenile Benchbook Committee

September, 1999

CHINS Benchbook - Customer Survey

To assist the Juvenile Benchbook Committee in its task of providing a useful tool and product for Indiana Juvenile Court officers, we would ask that you take a moment to complete this customer survey. A section for submission of your suggestions for changes or improvements to this Juvenile CHINS Benchbook is included; your suggestions will be considered by the Committee for future revisions to the Benchbook. Please return this Form to the Juvenile Benchbook Committee, in care of the Indiana Judicial Center, at the address listed on this Form. Thank you for your assistance.

[Please check the applicable box:]

1. How many CHINS cases were filed in your Court last year?
   q Less than 100 q 100 to 250 q 250 to 500 q More than 500

2. On average, how often in the course of your work do you refer to the Juvenile CHINS Benchbook?
   q Daily q Weekly q Monthly q Less often than Monthly

3. **Scope Notes and Procedural Guides:** How would you rate the content and utility of the Scope Notes and Procedural Guides of this CHINS Benchbook?
   q Excellent q Good q Average q Below Average q No Opinion

4. **Forms:** How would you rate the content and utility of the various Forms that are provided in each chapter of this CHINS Benchbook?
   q Excellent q Good q Average q Below Average q No Opinion

5. **Overall Content and Utility:** How would you rate the overall content and utility of this CHINS Benchbook as it pertains to your work as a Juvenile Court Judge?
   q Excellent q Good q Average q Below Average q No Opinion

6. What new topics or forms would you like to see added to future revisions of the Juvenile CHINS Benchbook?*(Attach additional sheets for comments and suggested forms, if needed)*:

Please return this Survey to:

Juvenile Benchbook Committee
c/o Indiana Judicial Center
115 W. Washington St., Suite 1075
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INTRODUCTION

The Indiana General Assembly has stated the policy and purpose of the Juvenile Code at I.C. 31-10-2-1:

> It is the policy of this state and the purpose of this article to:
>
> (1) recognize the importance of families and children in our society;
>
> (2) recognize the responsibility of the state to enhance the viability of children and families in our society;
>
> (3) acknowledge the responsibility each person owes to the other;
>
> (4) strengthen family life by assisting parents to fulfill their parental obligations;
>
> (5) ensure that children within the juvenile justice system are treated as persons in need of care, protection, treatment, and rehabilitation;
>
> (6) remove children from families only when it is in the child's best interest or in the best interest of public safety;
>
> (7) provide for adoption as a viable permanency plan for children who are adjudicated children in need of services;
>
> (8) provide a juvenile justice system that protects the public by enforcing the legal obligations that children have to society and society has to children;
>
> (9) use diversionary programs when appropriate;
>
> (10) provide a judicial procedure that:
>
> (A) ensures fair hearings;
>
> (B) recognizes and enforces the legal rights of children and their parents; and
>
> (C) recognizes and enforces the accountability of children and parents;
>
> (11) promote public safety and individual accountability by the imposition of appropriate sanctions; and
>
> (12) provide a continuum of services developed in a cooperative effort by local governments and the state.

Considering the policy and purpose stated by the General Assembly in this statute, the purpose of the Juvenile Code as it relates to children in need of services is twofold: (1) to protect children and insure children are afforded a chance for a viable life; (2) maintain and strengthen the family as a unit in our society. These goals often conflict. The most difficult task a juvenile judge must accomplish in a CHINS case is to balance the competing interests of the child, family and society.

The most significant difference between CHINS and Delinquency cases is the number of different competing interests involved in each case. The interest of the child is to be safe and to be in a loving family environment that provides for the child's basic needs. Sometimes we, as judges and lawyers, tend to overlook the perspective of a child, and instead impose our own adult view of the world, as if it were the child's perspective. The Office of Family and Children may overlook the perspective of the child and instead impose a perceived societal norm. Parents may substitute their own personal interests and goals for that of the child. Other agencies and individuals may have their own view of what is in the child's best interest. Their view may be driven by factors totally unrelated to the stated policy of recognizing and enhancing the viability of children and families.

It is the responsibility of the juvenile court judge to consider the facts and circumstances of the child's life in deciding what is in the child's best interests. The purpose of this Benchbook is to assist the juvenile court judge in finding a way through the maze of competing policies and interests to make the best decision on behalf of Indiana's children.

IMPROVING COURT MANAGEMENT OF CHINS CASES

The principal focus of recently enacted federal and state laws is the emphasis on expediting CHINS cases. The time from filing of the CHINS case to Dispositional Decree should be reduced. The time to termination of jurisdiction over the child is shortened to one year, unless good cause is shown to continue jurisdiction. Suggestions:

1. Informal adjustment procedures should be employed so that they do not contribute to delay.

2. Courts should conduct adjudication or fact-finding hearings within 30 days of filing in uncontested cases and within 60 days of filing in contested cases.

3. The initial hearing should be used as an opportunity for the court to set deadlines and facilitate prompt resolution.

4. Courts should conduct dispositional hearings within 30 days of adjudication or fact-finding.

5. Review hearings should be held at two or three month intervals following disposition.

6. Courts should make aggressive use of parental participation orders and agreements.

7. County Office of Family and Children personnel should expedite permanency plans for children.

8. Courts must commence Termination of Parental Rights Hearings within 90 days of filing of a petition to terminate parental rights.

Holding review hearings after disposition at two or three month intervals, and the aggressive use of parental participation orders and agreements will facilitate permanency for children.

These programs facilitate permanency for children: expanded CASA programs; use of early intervention; development of Wrap-Around services; tutoring and outreach programs; and use of therapeutic foster homes.

SCOPE NOTE

CHINS Jurisdiction

Subject Matter Jurisdiction:

IC 31-30-2-1: Juvenile Court has exclusive original jurisdiction over proceedings in which a child, including a child of divorced parents, is alleged to be a child in need of services under IC 31-34-1.

Definitions of a Child in Need of Services:

IC 31-34-1: Defines the circumstances in which a child is a Child in Need of Services. A child is a child in need of services if before the child is 18 years of age one of the following exists and the child needs care, treatment or rehabilitation that the child is not receiving and is unlikely to be provided or accepted without the coercive intervention of the court:

IC 31-34-1-1: Inability, refusal or neglect of parent, guardian, or custodian to supply child with necessary food, clothing, shelter, medical care, education, or supervision

IC 31-34-1-2: Act or omission of parent, guardian or custodian seriously endangering child's physical health or mental health

Note: Office of Family and Children and court need not wait until a child is "endangered" by either parental action or inaction or ". . . until a tragedy occurs or the children are irretrievably ruined by a parent who is out of control in order to take action." **Parker v. Monroe County DPW,** 533 N.E.2d 177, 179 (Ind.Ct. App. 1989).

IC 31-34-1-3: Victim of sex offense

IC 31-34-1-4 Parent, guardian, or custodian allowing child's participation in obscene performance

IC 31-34-1-5 Parent, guardian, or custodian allowing child to commit sex offense

IC 31-34-1-6 Child substantially endangering own or another's health

IC 31-34-1-7 Parent, guardian, or custodian failing to participate in school disciplinary proceeding

IC 31-34-1-8 Missing child

IC 31-34-1-9 Disabled child deprived of necessary nutrition or medical or surgical intervention

IC 31-34-1-10 Child born with fetal alcohol syndrome or with controlled substance or legend drug in child's body

IC 31-34-1-11 Risks or injuries arising from use of alcohol, controlled substances, or legend drug by child's mother during pregnancy

Note: IC 31-34-1-12 through 15 provides exceptions or defenses to an allegation that a child is a child in need of services: (1) a mother's good faith use of legend drugs or controlled substances according to prescription; (2) for failure to provide medical treatment because of religious beliefs; (3) the use of reasonable corporal punishment.

Formal Acquisition of Jurisdiction:

Caselaw establishes that it is necessary for particular steps to be taken in order to formally acquire juvenile jurisdiction. Historically, that question has arisen on appeal following a waiver of juvenile *delinquency* jurisdiction to adult criminal court. Examples follow:

Seay v. State, 337 N.E.2d 489 (Ind.Ct. App. 1975), *rehearing denied*, 340 N.E.2d 369 (Ind.Ct.App. 1976);
Murphy v. State, 408 N.E.2d 1311 (Ind.Ct. App.1980);
Taylor v. State, 438 N.E.2d 275 (Ind. 1982)

The following decision, however, involves a CHINS Proceeding:

Matter of Lemond, 413 N.E.2d 228 (Ind. 1980).

NOTE: Five essential elements are necessary to obtain formal jurisdiction over a child in need of services proceeding:

1. Written intake information signed by the person giving the information or by the intake officer. The intake officer should reduce telephone or oral referrals to writing when a child's physical or mental health may be seriously endangered and when the person giving information is not present to sign the "intake information" or will not sign such a form.
2. The report of preliminary inquiry.
3. Request from the prosecutor or attorney for County Office of Family and Children for authorization to file a petition.
4. The order of the juvenile court authorizing the filing of the petition.
5. Petition alleging the child is a child in need of services.

IC 31-34-7; IC 31-34-9-1 through 7.

In an emergency, an order entered after testimony in court but without a preliminary inquiry authorizing a CHINS petition to be filed is sufficient compliance with IC 31-34-9-1 and 2 to confer CHINS jurisdiction. **Hallberg .v Hendricks County Office of Family and Children,** 662 N.E. 2d 639 (Ind.Ct.App. 1996).

Exclusive Original Nature of Jurisdiction Once Acquired:

A juvenile court has exclusive original jurisdiction over proceedings in which a child is alleged to be a child in need of services, including proceedings governing the detention of a child before a petition alleging a child is a child in need of services is filed. **IC 31-30-1-1.**

Once a juvenile court acquires jurisdiction over a child in need of services its jurisdiction is exclusive while the CHINS proceeding is pending.

If a petition for appointment of a guardian is thereafter filed in another court, it should be dismissed. **Guardianship of Bramblett,** 495 N.E. 2d 798 (Ind.Ct.App. 1986).

Under prior caselaw, a divorce court had no jurisdiction to modify its existing custody order if a CHINS proceeding is pending with respect to the subject child. **Alexander v. Cole,** 697 N.E. 2d 80 (Ind.Ct.App. 1998), **Hallberg v. Hendricks County Office of Family and Children,** 662 N.E. 2d 639 (Ind.Ct.App. 1996). However, effective July 1, 1999, a court having jurisdiction of a child custody proceeding in a marriage dissolution or a paternity proceeding has concurrent original jurisdiction with the juvenile court for the purpose of modifying custody of a child who is under the jurisdiction of the juvenile court. Whenever the court having child custody jurisdiction under a marriage dissolution or a paternity proceeding modifies child custody, the modification is effective only when the juvenile court enters an order approving the child custody modification or terminates the child in need of services proceeding. I.C. 31-30-1-12.

Miscellaneous Jurisdictional Matters:

See IC 31-30-1-6 and 10 concerning probate and juvenile court conflicts in jurisdiction over certain juveniles.

A petition for appointment of a guardian under the Probate Code (IC 29-1-18) may in reality be a CHINS petition over which the juvenile court has exclusive jurisdiction. **In re Guardianship of Thompson,** 514 N.E. 2d 618 (Ind. 1987).

Albeit extremely fact sensitive, a juvenile court has jurisdiction to authorize sterilization of a juvenile if it demonstrated by clear and convincing evidence that it is in the best interests of the child. **P.S. v. W.S. & P.S.,** 452 N.E. 2d 969 (Ind. 1983).

SCOPE NOTE
Written Intake Information and Preliminary Inquiry

An "intake" is information given to the Intake Officer that a child may be a child in need of services and a request to the Intake Officer to make a preliminary inquiry for the purpose of determining whether a detention request and/or a CHINS petition should be filed.

The preliminary inquiry report is prepared as a part of the intake process. It is a written report, prepared by the intake officer, concerning: the child's background; the basis for the allegation that the child is a CHINS; the child's current status and school performance; other relevant factors pertaining to the child.

Written intake information.
IC 31-34-7-1

Preliminary inquiry and report.
IC 31-34-7-2
The intake officer completes a preliminary inquiry and sends the report to the prosecutor or the attorney for the County Office of Family and Children with a recommendation to: file a petition; informally adjust the case; refer the child to another agency; or dismiss the case.

Intake officer's duties.
IC 31-34-7.
In referring to the former statute under the juvenile code, the court said that "the statute did not contemplate a preliminary social history in all cases and did not indicate to what extent such a social history should be developed in any particular case. . . The extent or direction of the investigation would necessarily vary with the circumstances of each case." **Murphy v. State,** 408 N.E.2d 1311 at 1314. (Ind. Ct. App., 1980).

Decisions under present statute.

IC 31-34-7 establishes the steps to be followed in acquiring or establishing jurisdiction in a CHINS proceeding. **Matter of Lemond,** 413 N.E.2d 228 (Ind. 1980).

Local coordinating committee.
IC 31-38
If a judge or the Office of Family and Children believes that a restrictive placement will be made, the judge, Office of Family and Children, and members of the local coordinating committee may be alerted.

Legal Rights of Parents
IC 31-34-4-6
See Form C-3.06

The county office of family and children shall furnish in writing to the parent, guardian, or custodian of a child who is alleged to be abused or neglected at the time the child is taken into

custody; or the filing of a petition alleging that the child is a child in need of services whichever occurred first; the following legal rights:

(1) To have a detention hearing held by a court within forty-eight (48) hours after the child's removal from the home and to request return of the child at the hearing.

(2) At each court proceeding on a petition alleging that the child is a child in need of services to cross examine witnesses; to present evidence on the parent's, custodian's, or guardian's own behalf; to be represented by an attorney; and if they cannot afford an attorney the court will appoint an attorney upon request if the court finds that the parent, guardian, or custodian does not have sufficient financial means for obtaining representation.

(3) Not to make statements that incriminate the parent, custodian, or guardian and that an incriminating statement may be used during a court proceeding on a petition alleging that the child is a child in need of services.

(4) To request to have the case reviewed by the child protection team under IC 31-33-3-6.

(5) A petition to terminate the parent-child relationship must be filed whenever a child has been removed from the child's parent and has been under the supervision of the county Office of Family and Children for at least fifteen (15) months of the most recent twenty-two (22) months.

PROCEDURE
(Written Intake Information and Preliminary Inquiry and Report)

I. Receipt of intake information.

A. Any person may give an intake officer written information indicating a child is a child in need of services. IC 31-34-7-1. USE FORM C-3.03 unless a sufficient written report has been received from a police department or other referral agency. FORM C-3.03 should be used for citizen referrals, as well as any instance where a written police or agency report is either unavailable or deemed insufficient.

> The Benchbook Committee believes the written information referred to in IC 31-34-7 should be called "Intake Information." The statute does not require it to be verified, but it should be signed by the person giving the information, or by someone on behalf of the referring agency. The intake officer should reduce telephone or oral referrals to writing when the person giving information is not present to sign the "Intake Information" or will not sign such a form.

B. Under existing case law the written intake information is an essential document to acquisition of juvenile jurisdiction and it, together with the report of preliminary inquiry, should be filed with the Court and made a part of the record at the time the CHINS petition is filed. The Court is required to find probable cause to believe that a child is a CHINS based upon either the evidence of probable cause contained in the preliminary inquiry (if it is verified) or an affidavit of probable cause. IC 31-34-9-2.

II. Preliminary inquiry and report.

A. If the intake officer has reason to believe the child is a child in need of services, the officer shall make a preliminary inquiry to determine whether the interests of the child require further action. A preliminary inquiry is an informal investigation of the facts and circumstances reported to the court. Whenever practical, it should include information on the child's background, current status, and school performance. IC 31-34-7-1 and IC 31-9-2-94.

B. A person who is accused of committing child abuse or neglect is entitled under IC 31-33-18-2(14) to access reports relevant to an alleged accusation. IC 31-34-7-4.

C. The intake officer does not have to advise child or parent of rights before conducting a preliminary investigation of an alleged child in need of services; however, if the child is placed in custody simultaneously with the preliminary investigation or if a petition is filed, then the parents must be advised of various legal rights, in writing. IC 31-34-4-6.

USE FORM C-3.04 for preliminary inquiry appointment.

USE FORM C-3.05 for consent to background investigation and release of information.

USE FORM C-3.06: State Form 47114 "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"

D. The intake officer shall send to the prosecutor or the attorney for the county office of family and children a copy of the preliminary inquiry. The intake officer shall recommend whether to file a petition, informally adjust the case, refer the child to another agency, or dismiss the case. IC 31-34-7-2.

USE FORM C-3.07 for preliminary inquiry format.

E. If a judge or the County Office of Family and Children believes that a restrictive placement will be made, the judge, county office of family and children, and members of the local coordinating committee may be alerted according to IC 31-38.

F. If the child and/or the parents are not legal residents of the State of Indiana, and/or another state has exercised jurisdiction with respect to the child, the subject matter jurisdiction to act may be at issue pursuant to the Uniform Child Custody Jurisdiction Law, IC 31-17-3-9. See **Matter of Lemond**, 413 N.E.2d 228 (Ind. 1980); Also see **Campbell v. Campbell**, 388 N.E.2d 607 (Ind. Ct. App., 1979); See also, **Clark v. Clark**, 404 N.E.2d 23 (Ind. Ct. App,. 1980);

C-3.03

STATE OF INDIANA

_____ COURT

In The Matter Of _____ CASE NO. _____

_____

A Child Alleged to be a Child in Need of Services

INTAKE INFORMATION FOR CHILD IN NEED OF SERVICES
IC 31-34-7-1

The undersigned hereby informs the Court that:

_____ _____ _____

Name Birth date Sex

whose parents are:

Father _____ Address _____

Mother _____ Address _____

or whose guardian or custodian is _____

_____

(address)

and who is now residing with _____

is a child in need of services, in that:

_____

_____

_____

Persons having knowledge of alleged conditions:

_____

_____

_____

The undersigned requests that the Intake Officer of said Court make a preliminary inquiry to determine whether the interest of the child require further action.

Dated: _____ _____

Signature

_____

(Printed Name)

PRELIMINARY INQUIRY APPOINTMENT

_____ County Office of Family and Children

Address: _____

Telephone No: _____ Date: _____

Dear: _____
_____
_____

This office has received information that_____
may be a child in need of services in that: _____
_____
_____
_____
_____
_____

You are hereby notified to be at the _____ County Office of Family and Children located at _____
(address)
_____ on _____, at _____ o'clock ___.M.
(date)

This will be an informal interview. If this time is not convenient, please call immediately for a change of appointment.

_____
Intake Officer

STATE OF INDIANA

_____ COURT

In The Matter Of _____ CASE NO. _____

_____

A Child Alleged to be a Child in Need of Services

CONSENT TO BACKGROUND INVESTIGATION AND RELEASE

The above named child's (parent) (guardian) (custodian) hereby give consent to the _____ County (Office of Family and Children) (Prosecutor) to make a complete and detailed investigation of the child's conduct and progress in school, the child's physical, medical and mental condition and history, the nature of the child's home and family, and other matters concerning the child's background in order to help the Office of Family and Children and Court decide what is necessary to help the child.

We hereby authorize any person, agency or school corporation having such information to release all records and information to:

[ ] _____ Office of Family and Children.

[ ] _____ Prosecuting Attorney

A photocopy of this consent and release shall be as valid as the original.

Date: _____ _____

(Parent)(Guardian)(Custodian)

Witness: _____

STATE OF INDIANA
_____ COURT

In The Matter Of _____ CASE NO. _____

_____
A Child Alleged to be a Child in Need of Services

INTAKE OFFICER'S REPORT OF PRELIMINARY INQUIRY AND INVESTIGATION

CHILD'S NAME: _____
ADDRESS: _____
AGE: _____ DATE OF BIRTH: _____ SSN: _____
SEX: _____ RACE: _____
HEIGHT: _____ WEIGHT: _____ HAIR: _____ EYES: _____
CONDITION ALLEGED: Date: _____ TIME:_____
Location: _____
Particulars of Alleged Condition:_____
_____
_____
Complainant's Name: _____ Address:_____
Name of Investigating Officer: _____ Title: _____
Witness of Offense: _____ Address: _____
Witness of Offense: _____ Address: _____
CURRENT STATUS OF CHILD:
_____
_____
_____
Said child is in need of services pursuant to IC 31-34-1 in that:

(Check applicable reason[s])

- ☐ 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;
  - ☐ Special circumstances involving a disabled child who is deprived of life-sustaining nutrition or medical intervention necessary to remedy a life-threatening medical condition. IC 31-34-1-9.
- ☐ The child's physical or mental health is seriously endangered due to injury by the act or omission of the child's parent, guardian or custodian;
- ☐ The child is the victim of a sex offense under IC 35-42-4-1, IC 35-42-4-2, IC 34-42-4-3, IC 35-42-4-4, IC 35-42-4-7, IC 35-42-4-9, IC 35-45-4-1, IC 35-45-4-2 or IC 35-46-1-3;
- ☐ The child's parent, guardian or custodian allows the child to participate in an obscene performance defined by IC 35-49-2-2 or IC 35-49-3-2;
- ☐ The child's parent, guardian or custodian allows the child to commit a sex offense prohibited by IC 35-45-4;
- ☐ The child substantially endangers the child's own health or the health of another; or
- ☐ The child's parent, guardian or custodian fails to participate in a disciplinary

proceeding in connection with the child's improper behavior, as provided for by IC 20-8.1-5.1-19 if the behavior of the child has been repeatedly disruptive in the school;

- ☐ The child is a missing child as defined by IC 10-1-7-2;
- ☐ The child is born with fetal alcohol syndrome or any amount of a controlled substance or legend drug in the child's body;
- ☐ The child has an injury, has abnormal physical or psychological development, or is at a substantial risk of a life-threatening condition due to the mother's use of alcohol, a controlled substance, or a legend drug during pregnancy; and the child needs care, treatment, or rehabilitation that the child is not receiving and is unlikely to be provided or accepted without the coercive intervention of the Court.

FAMILY INFORMATION

Father's Name:_____ Paternity established? ☐ Yes ☐ No
DOB: _____ SSN (if available):_____
Address:_____
Employment:_____ Hours:_____
Home Telephone:_____ Work Telephone:_____
Marital Status: _____

Mother's Name:_____
DOB: _____ SSN (if available):_____
Address:_____
Employment:_____ Hours:_____
Home Telephone:_____ Work Telephone:_____
Marital Status: _____

Guardian:_____
DOB: _____ SSN (if available):_____
Address:_____
Employment:_____ Hours:_____
Home Telephone:_____ Work Telephone:_____

Other(s):_____ Relationship:_____
DOB: _____ SSN (if available):_____
Address:_____
Employment:_____ Hours:_____
Home Telephone:_____ Work Telephone:_____

Who has legal custody?: _____

Who has physical custody?_____

SIBLINGS:

Name	Age	Location	Juvenile or Criminal History

HOME AND NEIGHBORHOOD:

_____

_____

SCHOOL:
Last grade attended: _____ Where?: _____
Presently in school?: _____ If not, why not? _____
_____
School problems: _____
Suspensions and expulsions: _____
_____
Attendance: _____
Academic: _____
Activities: _____
Future plans: _____

CHILD'S EMPLOYMENT:
Presently employed? _____ If yes, where and what are the hours of employment?
_____
Wage:_____

CHILD'S PHYSICAL HEALTH:
_____
_____

CHILD'S MENTAL HEALTH:
_____
Psychological and/or family counseling: _____
_____
Is counseling and/or testing recommended at this time?: _____

PRIOR COURT INVOLVEMENT (including Informal Adjustments or service agreements):
_____
_____

HAS CHILD BEEN REMOVED FROM THE HOME?: _____
If yes, when was child removed?: _____
Where was the child placed? _____
Reason: _____
Who authorized removal?: _____
Where is the child now?: _____
What reasonable efforts were made to prevent removal?
_____
_____
The safety of the children precludes the immediate use of family services to prevent removal of the children because:
_____
_____
Continuation in the home is contrary to the welfare and placement is in the best interests of child because:
_____

OTHER PERTINENT INFORMATION:

_____

_____

RECOMMENDATION:

☐ Filing of Petition alleging that child is a child in need of services
  ☐ Out-of-home placement should be considered (where): _____

☐ Informal Adjustment
  ☐ Out-of-home placement should be considered (where): _____

☐ Service Referral Agreement

☐ No further action

☐ Other recommendation:_____

Reasons for Recommendation: _____

_____

_____

I affirm, under the penalties for perjury, that the foregoing representations are true.

Dated: _____ _____

Signature

_____

Title

CERTIFICATE OF SERVICE

This certifies that a copy of the above and foregoing report was mailed to or served on the following person representing the interests of the State: _____ _____ this ____ day of_____,_____.

_____
Signature

(Optional)

REQUEST FOR AUTHORIZATION TO FILE PETITION

The undersigned (Attorney for the County Office of Family and Children) (Prosecutor) requests authorization from the Court to file a petition alleging that the within named child is in need of services.

Dated: _____ _____
Signature

Scope Note
Informal Adjustment

Informal Adjustment: IC 31-34-8
After the preliminary inquiry, and upon approval by the juvenile court, the intake officer may implement a program of informal adjustment if the officer has probable cause to believe the child is a child in need of services. IC 31-34-8-1.

The child, the child's parent, guardian, custodian or attorney must consent to the program. IC 31-34-8-2. Before a person named as responsible for abuse or neglect in a substantiated report signs an agreement to participate in the informal adjustment, the person must be notified orally and in writing of the extent to which information in the report must be entered in the Child Abuse Registry. IC 31-34-8-4. When an approved informal adjustment arises from substantiated child abuse or neglect, the local child protection service must send the report to the child abuse registry within five (5) working days. IC 31-34-8-5.

If a parent, guardian or custodian fails to comply with the informal adjustment, the Court may, upon the filing of a Petition for Compliance, and after notice and hearing, order the parents, guardian or custodian to participate. IC 31-34-8-3(a). A parent, guardian or custodian who, thereafter, fails to participate in the program of informal adjustment may be punished by contempt. IC 31-34-8-3(b).

> *NOTE*: If the informal adjustment is not successfully complied with, a formal CHINS petition can be filed.

A program of informal adjustment may not exceed six (6) months, except with the approval of the juvenile court. With such approval, the program may be extended an additional six (6) months. IC 31-34-8-6. The local child protection service must file reports with the court indicating the extent of compliance with the program of informal adjustment at five and eleven months (if the informal adjustment is extended). IC 31-34-8-7.

The juvenile court may assess an informal adjustment program fee of not less than $5.00 or more than $15.00 per month. IC 31-34-8-8. The fee is collected by the probation department and must be transferred to the county auditor within 30 days for deposit in the county user fee fund. IC 31-34-8-9.

Reasonable Efforts Finding:
Federal regulations provide that a finding of reasonable efforts to avoid removal of the child from the home must be made if the child was removed from the home, either voluntarily, by OFC, or by court order. See federal regulations regarding voluntary placement or constructive removal.
45 CFR 1356.21

Case law Under Prior Statute (IC 31-6-4-12)
If parents desire a fact-finding hearing they may refuse to consent to an informal adjustment program prior to the authorization of a petition. The lack of an adjudicatory hearing for the informal adjustment is not a denial of due process. **Nahrwold v. Department of Public Welfare, 427 N.E.2d 474 (Ind. Ct. App. 1981).**

C-4.02

PROCEDURE
Informal Adjustment

A. Implementation

1. The intake officer must determine there is probable cause to believe the child is a child in need of services.

2. The child, the child's parent, guardian, custodian or attorney must consent to the program.

3. Before a person named as responsible for abuse or neglect in a substantiated report signs an agreement to participate in the informal adjustment, the person must be notified orally and in writing of the extent to which information in the report must be entered in the Child Abuse Registry.

4. When an approved informal adjustment arises from substantiated child abuse or neglect, the local child protection service must send the report to the Child Abuse Registry within five (5) working days.

5. The program of informal adjustment must be approved by the juvenile court. The program may not exceed six (6) months but may be extended, with court approval, for another six (6) months. Benchbook committee does not recommend an extension of an Informal Adjustment wherein the child has been physically or constructively removed.

6. A report regarding compliance must be filed with the court after five months. If an extension has been granted, a supplemental report must be filed after eleven months.

B. Miscellaneous

1. The Court may order a monthly informal adjustment program fee of not less than $5.00 or more than $15.00 per month. The fee is collected by the probation department and must be transferred to the county auditor within 30 days.

2. It appears that no specific provision has been made in the statute for the method of approval of a program of informal adjustment by the court. Approval is generally indicated by the Judge's signature.

3. CHINS informal adjustments should be docketed as juvenile miscellaneous (JM) according to the Office of State Court Administration.

STATE OF INDIANA

_____ COURT

In The Matter Of _____ CASE NO. _____

_____

A Child Alleged to be a Child in Need of Services

PROGRAM OF INFORMAL ADJUSTMENT

Written information indicating that the above named child, _____, date of birth _____, is a child in need of services was submitted to the undersigned Intake Officer, and the undersigned made a preliminary inquiry and determined there is probable cause to believe that said child is a child in need of services.

The undersigned Intake Officer concluded that a program of informal adjustment should be undertaken for a period of _____ months, subject to the consent of said child, the child's parent, guardian, custodian or attorney, and subject to the approval of the Court. The child shall be under the supervision of _____, (optional). The child (or the child's parents) shall pay a monthly user's fee of $_____ [*not less than $5.00, nor more than $15.00 per month*].

The program of informal adjustment shall consist of the following:

Dated: _____ _____

Intake Officer

I have read the program for informal adjustment, and I consent and agree to it. I further understand that if I do not follow this program, this matter may be referred to the County Office of Family and Children or the Prosecutor for formal court proceedings.

_____ _____

(Parent) (Guardian) (Custodian) Child *[If applicable]*

_____ _____

(Parent) (Guardian) (Custodian) Attorney for (Parent) (Guardian) (Custodian)

This program of informal adjustment is approved by the court for a period of six (6) months.
[If child has been removed or has been constructively removed insert the following: The court finds that the OFC has made reasonable efforts to prevent removal as set forth in the Report of Preliminary Inquiry and Investigation filed herein.]

Dated: _____ _____

Judge

C-4.04

STATE OF INDIANA

_____ COURT

In The Matter Of _____ CASE NO. _____

_____

A Child Alleged to be a Child in Need of Services

MOTION FOR EXTENSION OF INFORMAL ADJUSTMENT

The parties having previously entered into an agreement of informal adjustment, now request that the Court approve an extension of the period of informal adjustment for an additional six months.

The extended program of informal adjustment shall consist of the following:

Dated: _____

_____ _____

(Parent) (Guardian) (Custodian) Intake Officer

_____

(Parent) (Guardian) (Custodian)

This extension of the program of informal adjustment is approved by the court for an additional period of six (6) months.

Dated: _____

_____

Judge

SCOPE NOTE
Detention and Custody Decisions

Authority to Take Child Into Custody

Law enforcement officers may take a child into custody under order of court.
IC 31-34-2-1

Order must be based upon written findings of fact that a ground for detention under IC 31-34-5-3 exists.
IC 31-34-9-5

Authority to take child into emergency custody without prior order of court.
IC 31-34-2-3

> Any law enforcement officer, probation officer or caseworker may take a child into custody when acting with probable cause to believe the child is a child in need of services and the child's physical or mental condition will be seriously endangered, and there is no reasonable opportunity to obtain a court order. A caseworker or probation officer may exercise this authority or where impractical to obtain assistance from a law enforcement officer.

Authority to take a missing child into custody because the child may be a CHINS and where missing child may be detained.
IC 31-34-2-4

Detention

Decisions to detain or release upon taking emergency custody:

> With prior order of court IC 31-34-4-2
> Without prior order of court IC 31-34-4-4 and 5.

Detention hearings must be held within forty-eight (48) hours (excluding Saturdays, Sundays and legal holidays) when child is not released after having been taken into emergency custody.
IC 31-34-5-1.

> **County of Riverside v. McLaughlin**, 500 U.S. 44, 111 S.Ct. 1661, 114 L.Ed. 2d 49 (1991), does not apply since CHINS proceedings are civil in nature. **Matter of Jordan**, 616 N.E.2d 388 (Ind. Ct. App. 1993).

Notice to Child and Parent

Notice of the time, place and purpose of the hearing shall be given to the child and to the parents, guardian or custodian if they can be located.
IC 31-34-5-1.

The county office of family and children shall furnish in writing to the parent, guardian, or custodian of a child who is alleged to be abused or neglected at the time the child is taken into custody; or the filing of a petition alleging that the child is a child in need of services whichever occurred first; the following legal rights:

(1) To have a detention hearing held by a court within forty-eight (48) hours after the child's removal from the home and to request return of the child at the hearing.
(2) At each court proceeding on a petition alleging that the child is a child in need of

services to cross examine witnesses; to present evidence on the parent's, custodian's, or guardian's own behalf; to be represented by an attorney; and if they cannot afford an attorney the court will appoint an attorney upon request if the court finds that the parent, guardian, or custodian does not have sufficient financial means for obtaining representation.

(3) Not to make statements that incriminate the parent, custodian, or guardian and that an incriminating statement may be used during a court proceeding on a petition alleging that the child is a child in need of services.

(4) To request to have the case reviewed by the child protection team under IC 31-33-3-6.

(5) A petition to terminate the parent-child relationship must be filed whenever a child has been removed from the child's parent and has been under the supervision of the county Office of Family and Children for at least fifteen (15) months of the most recent twenty-two (22) months.

IC 31-34-4-6
See Form C-3.06

Place of Detention

Place of detention for child in need of services.
IC 31-34-6-1

A child in need of services may not be detained at any time in a secure facility or a shelter care facility that houses persons charged with or convicted of crimes.
IC 31-34-6-1

A court shall consider placing an alleged CHINS with an appropriate family member of the child before considering any other placement.
IC 31-34-6-2

A court may not place a child in:

(1) a community based correctional facility for children;
(2) a juvenile detention facility;
(3) a secure facility;
(4) a secure private facility; or
(5) a shelter care facility;

that is located outside the child's county of residence unless placement of the child in a comparable facility with adequate services located in the child's county of residence is unavailable or the child's county of residence does not have an appropriate comparable facility with adequate services.
IC 31-34-6-3

According to 42 U.S.C. § 671 (a)(15) it must be shown that reasonable efforts have been made prior to the placement of a child in foster care to prevent or eliminate the need for removal of the child from the home. See also IC 31-34-21-5.5.

If a child has been removed from his parent, guardian, or custodian, at the detention hearing the court shall make written findings and conclusions stating:

(1) Whether removal of the child was necessary to protect the child.
(2) Description of the family services available before removal of the child.

(3) Efforts made to provide family services before removal of the child.
(4) Why the efforts made to provide family services did not prevent removal of the child.
(5) Whether the efforts made to prevent removal of the child were reasonable.

IC 31-34-5-2

Decisions Under These Statutes

IC 31-34-1 and IC 31-34-2

". . . a parent suffers no prohibited lack of due process when her child is temporarily removed from her if a reasonable basis exists to believe that the child is a child in need of services."

Nahrwold v. Department of Public Welfare, 427 N.E.2d 474 at 480. (Ind. Ct. App. 1981).

If a detention hearing is not timely held, the juvenile is entitled to release from detention but the juvenile court does not lose jurisdiction and juvenile is not entitled to dismissal or discharge.

In Re Tacy, 427 N.E.2d 919 (Ind. Ct. App. 1981);
Gerrick v. State, 451 N.E.2d 327 (Ind. 1983).

The department of social services' failure to provide the juvenile with protection against his father's violence did not constitute a violation of the juvenile's substantive due process rights under the Fourteenth Amendment.

DeShaney v. Winnebago County Department of Social Services, 489 U.S. 189, 109 S.Ct. 998 (1989).

PROCEDURE
Detention and Custody Decisions

I. Court ordered emergency custody.

A. If a verified petition alleging that a child is a child in need of services is authorized, the prosecuting attorney or the attorney for the County Office of Family and Children may request that the child be taken into custody. This request for custody must be in writing and it must be supported by sworn testimony or affidavit IC 31-34-9-5.

Consider filing the verified petition and the request for taking child into custody at the same time.

FORM C-6.03 for joint petition.

B. If the Court orders a CHINS taken into custody, the Court shall consider placement with a suitable and willing blood or adoptive relative caretaker including grandparent, an aunt, an uncle, or an adult sibling, before considering any other out-of home placement. If the Court approves the request for custody, the Court also designates in the order the place of detention pending the detention hearing.
IC 31-34-4-3

Before placing with a relative caretaker, the court may order the office of family and children to complete a home study of the relative's home and provide the court with a placement recommendation.
IC 31-34-4-2

FORM C-5.04; C-5.06; C-5.07

II. Emergency custody without prior court order.

A. If a child is taken into custody without a prior order of the court, the person taking custody (law enforcement officer, probation officer or caseworker) may:

1. release the child, or
2. deliver the child to a place designated by the court, and shall notify the child's parent, guardian or custodian and an intake officer that the child is being held and the reason for his detention.
IC 31-34-4-4.

FORM C-5.06; C-5.07; *see* Form C-3.06: State Form 47114 [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]

Note: Consider the method by which the court will designate the place to deliver the child, for example: a blanket order book entry or designation by the court or county office of family and children intake officer on a case by case basis.

B. The intake officer, after an investigation into the reasons for the child's detention, may release the child to his parent, guardian or custodian upon the person's written

promise to bring the child before the juvenile court at a later time: IC 31-34-4-5.

FORM C-5.05

C. The intake officer, after an investigation into the reasons for the child's detention, may detain the child if he/she reasonably believes the child is a child in need of services and that one or more of the following grounds exists:
   1. detention is necessary to protect the child;
   2. the child is unlikely to appear before the juvenile court for subsequent proceedings;
   3. the child has a reasonable basis for requesting that the child not be released or
   4. the parent, guardian or custodian cannot be located or is unable or unwilling to take custody of the child.
      IC 31-34-4-5.

III. Detention hearings.

A. If the child is not released by either the person taking custody or the intake officer, a detention hearing must be held by the court within forty-eight (48) hours after the child is taken into custody. Notice of the time, place and purpose of the hearing shall be given to the child and to the parents, guardian or custodian if they can be located. IC 31-34-5-1.

The county office of family and children shall submit written information to a parent, custodian, or guardian of a child who is alleged to abused or neglected regarding the following legal rights of the parent, custodian, or guardian:

(1) The right to have a detention hearing held by a court within forty-eight (48) hours after the child's removal from the home and to request return of the child at the hearing.

IC 31-34-4-6

FORM C-5.06; C-5.07; *see* Form C-3.06: State Form 47114 [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]

B. The court, after a hearing, shall release the child to his parent, guardian or custodian. However, upon motion of the court or the state, an additional detention hearing may be held at a later date for the purpose of returning the child to detention. IC 31-34-5-3 & 4.

C. The court may order the child detained after making written findings of fact of probable cause on the record that the child is a child in need of services and a finding that one or more of the following grounds exist:
   1. detention is necessary to protect the child;
   2. the child is unlikely to appear before the juvenile court for subsequent proceedings;
   3. the child has a reasonable basis for requesting that the child not be released; or
   4. the parent, guardian or custodian cannot be located or is unable or unwilling to take custody of the child.

IC 31-34-5-3.

FORM C-5.08

D. According to 42 U.S.C. § 672(a)(1) it must be shown that reasonable efforts have been made prior to the placement of a child in foster care to prevent or eliminate the need for removal of the child from his home. Also, the court must make written findings and conclusions according to IC 31-34-5-2 that state:

1. Whether removal of the child was necessary to protect the child;
2. A description of the family services before removal of the child;
3. Efforts made to provide family services before removal of the child;
4. Why the efforts made to provide family services did not prevent removal of the child; and
5. Whether the efforts made to prevent removal of the child were reasonable.

FORM C-5.08

E. If the child is so detained, the child or the child's parent, guardian or custodian may petition the court for additional detention hearings.
IC 31-34-5-5

FORM C-5.09

NOTE: WHEN REUNIFICATION OF THE FAMILY IS NOT REQUIRED
In response to federal law passed in 1997, the Indiana "Adoption and Safe Families Act" (SEA 425) was enacted in 1998. The underlying purpose of the law is to provide permanency for children. Upon finding certain conditions exist, the focus of the CHINS case shifts from reunification of the family to permanent resolution for the child.

Reasonable efforts to reunify or preserve a family are not required if the court finds any of the following conditions exist:

(1) a parent, guardian or custodian has been convicted of selected crimes;
(2) parental rights of a parent have been involuntarily terminated with regards to a sibling;
(3) the child is an abandoned infant.

See C-10.01, Section I(E). **I.C. 31-34-21-5.6.** *See* FORM C-10.06

C-5.03

DIALOGUE FOR DETENTION HEARING
CHINS

COURT: Let the record show that this is a detention hearing being held this ___ day of _____,_____ at _____o'clock ___.M.

COURT: In regard to the detention of _____,
(name of child)

a child. Present are _____.

COURT: Would the parents, guardian or custodian of the child who are present please state their names and relationship to the child.

COURT: Mr./Mrs. _____, was I given the correct name, age and date of birth of the child?
A.

COURT: Mr./Mrs. _____, what is your address and how long have you lived there?
A.

COURT: Mr./Mrs. _____, does the child live there with you at this time? (If not, where does the child live and with whom?)
A.

COURT: Will all others present please identify yourself by name and reason for being here and/or relationship to the child.
A.

COURT: _____, when was the child taken into custody?
(OFC representatives)

A.

COURT: Let the record reflect that this hearing is being timely held (See IC 31-34-5-1). We are here today to determine several things.

First, is there probable cause to believe the child is a child in need of services? A child is a child in need of services if before the child's eighteenth (18) birthday:

1. 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;

   (*Only if applicable*) Special circumstances involving a disabled child who is deprived of life-sustaining nutrition or medical intervention necessary to remedy a life-threatening medical condition. IC 31-34-1-9.

2. The child's physical or mental health is seriously endangered due to injury by the act or omission of the child's parent, guardian or custodian;
3. The child is the victim of a sex offense under IC 35-42-4-1, IC 35-42-4-2, IC 34-42-4-3, IC 35-42-4-4, IC 35-42-4-7, IC 35-42-4-9, IC 35-45-4-1, IC 35-45-4-2 or IC 35-46-1-3;
4. The child's parent, guardian or custodian allows the child to participate in an obscene performance defined by IC 35-49-2-2 or IC 35-49-3-2;
5. The child's parent, guardian or custodian allows the child to commit a sex offense prohibited by IC 35-45-4;
6. The child substantially endangers the child's own health or the health of another; or
7. The child's parent, guardian or custodian fails to participate in a disciplinary proceeding in connection with the child's improper behavior, as provided for by IC 20-8.1-5.1-19 if the behavior of the child has been repeatedly disruptive in the school;
8. The child is a missing child as defined by IC 10-1-7-2;
9. The child is born with fetal alcohol syndrome or any amount of a controlled substance or legend drug in the child's body;
10. The child has an injury, has abnormal physical or psychological development, or is at a substantial risk of a life-threatening condition due to the mother's use of alcohol, a controlled substance, or a legend drug during pregnancy;

and the child needs care, treatment, or rehabilitation that the child is not receiving and is unlikely to be provided or accepted without the coercive intervention of the Court.

Second, we are here to determine whether the child should be released from custody. To continue the child in custody, I must find that the child is unlikely to appear for subsequent proceedings; detention is essential to protect the child; no person legally entitled to the custody of the child can be found who will take the child; or the child has a reasonable basis for requesting that the child not be released.

Third, if I determine the child should be continued in custody, I must then determine where custody should be. _____, do you understand why we are here?
(name of child)

A:

COURT: Mr./Mrs. _____, do you understand why we are here?

A:

NOTE: Swear in potential witnesses.

COURT: _____, please inform the court of your
(OFC representative)
probable cause to believe the child is a child in need of services.

A:

COURT: _____, what efforts were made to prevent or
(OFC Representative)
eliminate the need for placement outside the home? If none was made, please state the reason.

A:

COURT: _____, what prior contact has the child or family had with the juvenile justice system and what were the dispositions of those contacts?

A:

COURT: _____, what are your recommendations to the court
(OFC Representative)
concerning whether the child should be released or detained, the type of detention if the child is to be detained, and any other orders that the court should make at this time?

A:

COURT: We are not here today in any way to determine the truth of what has been related to the court. Rather, the court is to decide merely probable cause and the nature of custody arrangements as I previously explained to you. Mr./Mrs. _____, what suggestions can you give the court concerning custody at this time?

A:

COURT: _____, do you wish to say anything at this time concerning only the issue of custody?

A:

COURT: Findings announced. See Form C-5.08

> **NOTE**: The judge may wish to consider setting the initial hearing date and a date for filing of the petition at this time. Courts should conduct adjudication or fact-finding hearings within 30 days of filing in uncontested cases and within 60 days of filing in contested cases.

COURT: (If applicable) As a result of today's proceedings, the county office of family and children or the deputy prosecuting attorney will be filing a petition with the court alleging that _____ is a child in need of services. An initial hearing will be held on that petition.

COURT: Order entered. See FORM C-5.08

NOTE: The court may consider collecting identifying information, including photographs of the child and parents at this time.

STATE OF INDIANA

_____ COURT

In The Matter Of _____ CASE NO. _____

_____

A Child Alleged to be a Child in Need of Services

EMERGENCY CUSTODY ORDER

Comes now the County Office of Family and Children and orally requests an Emergency Order to remove the above named child from the home of his/her parents/guardian _____ at_____.

The County Office of Family and Children by _____, presents information by telephone/affidavit that said child is in need of services in that:

_____

and further that the physical or mental condition of the child will be seriously impaired or endangered if not immediately removed from the home and taken into protective custody in that detention is necessary to protect the child.

The Court finds as follows:

1) That an emergency exists requiring the immediate action by the Court without benefit of a hearing.
2) Continuation of residence in the home of the parent/guardian would be contrary to the welfare of the child because _____
(Example: it appears the child has been physically abused by the parent; it appears the residence of the parent is in such condition as to cause immediate harm to the child)
3) That the physical or mental condition of the child will be seriously impaired or endangered if not immediately removed from the home and taken into protective custody and the safety of the child precludes the immediate use of family services to prevent the removal of the child;
4) That there is reason to believe the child is in need of services.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the County Office of Family and Children is authorized to take _____ child into immediate protective custody with the assistance of law enforcement pursuant to IC 31-34-2. Said child shall be placed in to foster care, the County Youth Shelter or appropriate placement with a relative. The County Office of Family and Children is authorized to expend funds for said child and obtain emergency medical attention.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that a detention hearing will be held on _____ at _____ o'clock __.M. and the County Office of Family and Children is directed to notify pertinent parties of the hearing, unless the child is released from detention.

_____

Judge

STATE OF INDIANA
_____ COURT

In The Matter Of _____ CASE NO. _____

_____
A Child Alleged to be a Child in Need of Services

WRITTEN PROMISE FOR APPEARANCE OF CHILD

I, the child, parent (or the guardian or custodian of the above named child) do promise to appear (and bring the child) to the Juvenile Court when requested to do so by _____ or in response to lawful process.

Dated: _____

_____
Parent

_____
Address

I hereby release the child, _____, to the custody of his parents or other person _____, upon the condition that the child and the child's parent, guardian or custodian appear in person in the Juvenile Court at a time to be later specified and upon the further following conditions:
_____
_____
_____

Dated: _____ _____
Detaining Officer or Intake Officer

C-5.06

STATE OF INDIANA
_____ COURT

In The Matter Of_____ CASE NO. _____

_____
A Child Alleged to be a Child in Need of Services

TO: _____

_____

_____

NOTICE OF DETENTION OF CHILD

You, as the parent, guardian, custodian or intake officer are hereby notified that the child, _____, age _____, who resides at: _____,

has been placed in detention by _____ police department/office of family and children because there is probable cause to believe the child is a child in need of services.

Please contact _____ at _____
(telephone)
for further information.

_____
Detaining Officer or Intake Officer
Address: _____
_____
Phone: _____

Date: _____
Time: _____

STATE OF INDIANA
_____ COURT

In The Matter Of _____ CASE NO. _____

_____
A Child Alleged to be a Child in Need of Services

NOTICE OF DETENTION HEARING

TO: _____
(a child under the age of eighteen years) (the parent, guardian or custodian of the child)

_____

_____

You are hereby advised to appear personally before the Judge of the _____ Court at the Court House, Room _____ in _____, Indiana on the ____ day of _____, _____ at _____ o'clock ____.M. for a Detention Hearing. The purpose of the Detention Hearing is to determine if the child should remain in detention or be released from detention.

If you fail to appear, your rights regarding the child may be adversely affected.

Dated this ____ day of _____, ____.

_____
Signature

_____
Title

STATE OF INDIANA
_____ COURT

In The Matter Of _____ CASE NO. _____

_____
A Child Alleged to be a Child in Need of Services

ORDER ON DETENTION HEARING

_____ is produced before the Court for a Detention Hearing
(child's name)
this ____ day of _____, _____.

Actual notice of the time, place and purpose of Detention Hearing has been given to the child and _____, or
(parent) (guardian) (custodian)
_____ cannot be located.
(parent)(guardian)(custodian)

Present at the hearing are: _____.

The Detention Hearing is now held.

The Court now finds that probable cause does not exist to believe that the child is a child in need of services and orders said child released to the custody of _____ _____.
(parent) (guardian) (custodian)

-OR-

The Court now finds that probable cause exists to believe the child is a child in need of services, but the child is not in need of further detention, and accordingly, orders the child be released to_____upon the latter's
(parent) (guardian) (custodian)
written promise to bring the child before the Court on the_____day of _____, _____at_____o'clock_____.M. and from day to day thereafter as ordered by the Court.

-OR-

The Court now finds that probable cause exists to believe the child is a child in need of services and the child should be detained because:

( ) the child is unlikely to appear for subsequent proceedings;
( ) detention is essential to protect the child;
( ) the parent, guardian, or custodian cannot be located or is unable or unwilling to take custody of the child; or
( ) the child has a reasonable basis for requesting that the child not be released.
( ) Also, the court finds:_____

( ) The removal of the child was authorized and necessary under IC 31-34-2-3 to protect the child; continuation of residence in the home of the parents/guardians would be contrary to the welfare of the child because *(Example: it appears the child has been physically abused by the parent; it appears the residence of the parent is in such condition as to cause immediate harm to the child)*

_____

_____

-OR-

( ) The removal of the child was not authorized or necessary under IC 31-34-2-3 to protect the child.

The following family services were available before the removal of the child:
_____
_____;

The following efforts were made to provide family services before the removal of the child:_____
_____;

Efforts made to provide family services did not prevent removal of the child for the following reasons: _____
_____

( ) The OFC has made reasonable efforts to avoid placement of the child outside the home as set forth in the Report of Preliminary Inquiry which the Court adopts as its findings.

-OR-

( ) The OFC has not made reasonable efforts to avoid placement of the child outside the home. The OFC is ordered to provide necessary services to reunify the family and to report those efforts to the court not later than 60 days from the date of removal.

-OR-

( ) Reasonable efforts to prevent removal of the child were not required because the parent guardian subjected the child to aggravated circumstances that affected the safety of the child. [Set forth the specific aggravated circumstances.]

The Court further finds:
_____
_____
_____

The Court orders the child be detained in the following placement until further order by the Court:
_____
_____

The Court authorizes the County Office of Family and Children Services to pay for the placement and to expend necessary funds for the care of the child.

[ ] The child support payable by _____ under case number _____ _____ is assigned to the _____ County Office of Family and Children until further order of this court. The Clerk of Court is directed to notify the _____ _____ Court of the assignment and assumption of jurisdiction by this Court.

[ ] Pursuant to the Child Support guidelines, _____ shall pay support to the Clerk of this Court in the amount of $_____ per _____, effective _____ and each _____ thereafter until further order of this Court. The child support payable under this order, as well as the cost of any medical care payable by the State under I.C. 12-15 is assigned to the _____ County Office of Family and Children until further order of this court.

The court further finds that the legal settlement of the child is _____ and the _____ County Office of Family and Children should provide notice required by I.C. 20-8.1-6.1-5.5.

[ ] Upon consideration of IC 31-32-6-2 through 5, the public is hereby excluded from all proceedings.

Dated this ____ day of _____, _____.

_____
Judge

STATE OF INDIANA
_____ COURT

In The Matter Of _____ CASE NO. _____

_____
A Child Alleged to be a Child in Need of Services

PETITION FOR ADDITIONAL DETENTION HEARING

I, _____, request that
(child) (parent) (guardian) (custodian)
the above named child be released from detention.

Dated: _____

_____
Petitioner

ORDER

The Court, having examined the Petition for Additional Detention Hearing now:

☐ Grants the request, and sets this cause for hearing on_____,
(date)
at_____at_____.
(time) (place)

☐ Denies the request.

_____
Judge

STATE OF INDIANA
_____ COURT

In The Matter Of _____ CASE NO. _____

_____
A Child Alleged to be a Child in Need of Services

CHECKLIST
Preplacement Preventative or Reunification Services Certification

The following efforts were made by _____
(name of agency)
to eliminate or prevent the need to remove the child/reunify the child and family:

1. Please include the contact persons, phone numbers, addresses for each service provided.
2. The caseworker should be prepared to testify in court with this documented checklist.

Also, please note the following:

( ) no efforts/services made to prevent removal/reunify the family;
( ) services (available) (unavailable) to prevent removal/unify the family: (Identify)
_____
_____
_____
( ) the safety of child precluded (preplacement preventative services) (reunification services) (please specify):_____
_____

( ) (preplacement preventative services) (reunification services) were provided or offered and include:

____ day care;
____ crisis counseling;
____ individual and family counseling;
____ emergency shelters;
____ procedures and arrangements for access to available emergency financial assistance;
____ arrangement for the provision of temporary child care to provide respite to the family for a brief period, as a part of a plan for preventing children's removal from home;
____ home-based family services;
____ self-help groups;
____ mental health counseling;
____ drug and alcohol abuse counseling;
____ vocational counseling or vocational rehabilitation;
____ post-adoption services;
____ transportation;
____ visitation;

____ other services which the agency identifies as necessary and appropriate:
_____

____ other information: _____
_____
_____

Dated: _____ _____
Intake Officer/Caseworker

STATE OF INDIANA

_____ COURT

In The Matter Of _____ CASE NO. _____

_____

A Child Alleged to be a Child in Need of Services

REPORT TO THE COURT

Comes now_____, case manager, and states to the court the following:

1. The following efforts were made to avoid the need for placement:

2. The above efforts were unsuccessful because:

3. The child cannot be protected in the home even if services are provided to the child and family because:

4. The following relative and friends have been contacted about providing placement for the child and their response are:

5. Proposed visitation arrangements are:

6. The placement of siblings and proposed visitation arrangements are:

7. The permanency plan for the child's future is:

8. The reasonable efforts to finalize permanency for the child are:

9. Child support pursuant to the attached Indiana Child Support Guidelines Worksheet for the mother should be $ _____ per _____, and for the father should be $ _____ per _____.

I affirm under the penalties for perjury that the foregoing statements are true and correct to the best of my knowledge and belief.

Dated: _____ _____

Signature

_____

(Printed Name)

SCOPE NOTE
Instituting Formal Proceedings

Request for authorization to file petition:
IC 31-34-9-1

The attorney for the county office of family and children or the prosecutor may request the juvenile court to authorize the filing of a petition alleging that a child is a child in need of services. The person requesting the authorization shall represent the interest of the state in all subsequent proceedings on the petition.

Court authorization to file petition:
IC 31-34-9-2

The court shall authorize the filing of the petition if it finds there is probable cause to believe the child is a child in need of services after considering the preliminary inquiry and evidence of probable cause as contained in either the report of preliminary inquiry or an affidavit of probable cause.

Petition alleging the child is a child in need of services:
IC 31-34-9-3

IC 31-34-9-3(4)(C) requires a "concise statement" of facts. **Matter of Lemond,** 413 N.E.2d 228 (Ind. 1980) holds that this requires "a substantial recitation of specific facts which demonstrate that a child is a child in need of services." Id. at 247.

Request that child be taken into custody:
IC 31-34-9-5

Written advisement of rights to parent, custodian or guardian:
IC 31-34-4-6

If the child is not in custody and the required advisement of rights has not been given, the advisement required by IC 31-34-4-6 shall be given to the parent, guardian or custodian, in writing, when filing the petition alleging that the child is a child in need of services. **See FORM C-3.06**

Acquisition of jurisdiction over a parent, guardian or custodian to require their participation in a program of care, treatment or rehabilitation for a child: IC 31-34-20-3; IC 31-34-16

Appointment of CASA/GAL:
IC 31-34-10-3

It is mandatory that a guardian ad litem or court appointed special advocate be appointed if the following allegations exist:

1. If the child substantially endangers the child's own health or the health of

another. IC 31-34-10-3(1)(A).

2. If the child is born with fetal alcohol syndrome or any amount of a controlled substance or a legend drug in the child's body or if the child's condition is caused by the mother's use of alcohol, controlled substance or a legend drug during pregnancy. IC 31-34-10-3(1)(B)
3. If there has been inability, refusal, or neglect of the child's parent, guardian or custodian to supply the child with the necessary medical care. IC 31-34-10-3(1)(C)
4. If the location of both of the child's parents is unknown. IC 31-34-10-3(1)(D)

Issuance of summons:
IC 31-34-10-2

Waiver of summons:
IC 31-32-5-6

Service of summons:
IC 31-32-9-1(d)
Service of summons can be waived by appearance.

Change of judge:
Change of judge is governed by Trial Rule 76 and not IC 31-32-8-1. See **State ex rel. Gosnell v. Cass Circuit Court**, 577 N.E.2d 957 (Ind. 1991) which held that Trial Rule 76 automatic change of judge prevails over the juvenile court change of judge statute, IC 31-6-7-9 (*prior law*).

Parties to the proceeding:
IC 31-34-9-7

Check applicability of UCCJA:
IC 31-17-3

PROCEDURE

A. After the procedures of Chapter 3 are complete, the attorney for the county office of family and children or the prosecutor files a request with the juvenile court to authorize the filing of a petition, along with a copy of the preliminary inquiry and any other document tending to establish probable cause.
IC 31-34-9-1

FORM C-6.03 for request for filing of petition.
FORM C-3.07 for preliminary inquiry.

B. The juvenile court shall consider the preliminary inquiry or an affidavit of probable cause and shall authorize the filing of a petition if it finds probable cause to believe that the child is a child in need of services.
IC 31-34-9-2

Form C-6.04 for order authorizing filing of petition.

If the petition is authorized, there may also be a request to take the child into custody. See Section C-5.00 in regard to temporary custody and detention of a child alleged to be a child in need of services. See form c-6.05.

C. If the child is not in custody and the required advisement of rights has not been given, the advisement required by IC 31-34-4-6 shall be given to the parent, custodian or guardian, in writing, when filing the petition alleging that the child is a child in need of services.

See FORM C-3.06 for written advisement of rights to parent, custodian or guardian.

D. The petition, which must be signed and filed by the person representing the interests of the state, shall be a verified petition entitled "In the Matter of _____, a Child Alleged To Be A Child In Need Of Services", and must contain the following:

1. A citation to the provision giving the juvenile law that gives the juvenile court jurisdiction in the proceeding;
2. A citation to the provision of the juvenile law that defines a child in need of services;
3. A concise statement of the facts upon which the allegations are based, including the date and location at which the alleged facts occurred;
4 The child's name, birth date, and residence address, if known;
5. The name and residence address of the child's parent, guardian, or custodian if known;
6. The name and title of the person signing the petition;
7. A statement indicating whether the child has been removed from the child's parent, guardian or custodian, and, if so, a description of efforts made to provide the child or the child's parent, guardian or custodian with family services before the removal, and reasons why family services were not provided before the removal of the child if family services were not provided.

FORM C-6.06 for petition alleging child in need of services.

E. When the petition is filed, the court shall set a time for the initial hearing on the petition. IC 31-34-10-2. There is no time limit prescribed for holding the initial hearing but it should be held without unreasonable delay.

FORM C-6.07 for order setting initial hearing.

F. Acquisition of jurisdiction over a parent, guardian or custodian to require their participation in a program of care, treatment or rehabilitation for a child or to require a person to refrain from direct or indirect contact with the child is provided for.
IC 31-34-20-3 (order for participation)
IC 31-34-16-1 (petition for parental participation)
IC 31-34-17-1 (protective orders)

As a general rule, a petition must be filed in order to require the participation of a parent or responsible adult in a program of care, treatment or rehabilitation of a child or to require a person to refrain from direct or indirect contact with the child.

A petition is not required if the parents:

a. Are summoned and appear at the initial hearing;
b. Are advised that they may be required to participate in such a program;
c. Have an opportunity to respond to the proposed program;
d. Agree to participate in the program; and
e. The program is then incorporated in a court order.

Note: The order would then be binding on the responsible adult and may be enforced by the court's contempt power.

If the responsible adult refuses to consent to such an order, a "Parental Participation Petition" would then be required. The petition may be filed either at the beginning of the proceedings or at any time thereafter. The petition may also be incorporated as a part of any petition concerning the child. *See* FORM C-11.03 for petition for parental participation.

G. A summons shall be issued by the clerk for the child, the child's parent(s), guardian, custodian, guardian ad litem and for any other person necessary. A copy of the petition alleging the child to be a child in need of services is to accompany each summons. The clerk shall issue summons pursuant to Ind. Trial Rule 4. IC 31-34-10-2. Personal service must be made at lease three (3) days before the hearing. Service by mail must be sent at least ten (10) days before the hearing. Under certain circumstances, service by publication is authorized.

FORM C-6.08 or C-6.09 for summons.

"Custodian" is defined as a person with whom a child resides and, for purposes of IC 31-34-1-1 through IC 31-34-1-9, includes any person responsible for the child's welfare who is employed by a public or private residential school or foster care facility. IC 31-9-2-31.

H. Service of summons is not required if the person entitled to be served attends the hearing. IC 31-32-9-1(d). Any person other than the child may waive service of summons if the person does so in writing. IC 31-32-5-6.

STATE OF INDIANA
_____ COURT

In The Matter Of _____ CASE NO. _____

_____
A Child Alleged to be a Child in Need of Services

REQUEST FOR FILING OF PETITION

Comes now, _____, Attorney for _____, and requests that the Court authorize a Petition alleging that _____ _____ _____, is a child in need of services.
(date of birth)

A written intake information form heretofore submitted to _____ _____ is attached.
(Intake Officer)

An Intake Officer's written report of preliminary inquiry is attached.

REQUEST FOR TAKING CUSTODY

Comes now, _____, Attorney for _____, and further requests that the Court order that the child be taken into custody pursuant to IC 31-34-9-5 in that:

( ) detention is necessary to protect the child and continuation in the home is contrary to the child's welfare;
( ) the child is unlikely to appear before the Juvenile Court for subsequent proceedings;
( ) the child has a reasonable basis for requesting not to be released; or
( ) the parent, guardian or custodian cannot be located or is unwilling to take custody of the child.
( ) the child is not in custody at the time of this request.
( ) the child is in custody at the time of this request. Reasonable efforts were/were not made to to prevent removal.

Petitioner will support this request with sworn testimony or with affidavit attached hereto.

Dated: _____ _____
Petitioner

Attorney for _____

STATE OF INDIANA

_____ COUNTY

In The Matter Of _____ CASE NO. _____

_____

A Child Alleged to be a Child in Need of Services

ORDER AUTHORIZING FILING OF CHINS PETITION

Comes now,_____
Attorney for _____,
and files a request for authority to file a Verified Petition alleging that _____
_____, _____, is a child in need of services.
(date of birth)
A written intake information form signed by _____, hereto submitted to
_____,
an Intake Officer, and an Intake Officer's written report of preliminary inquiry is now filed and made a part of the record.

The Court, having considered the preliminary inquiry and evidence of probable cause as contained in either the report of the preliminary inquiry or an affidavit of probable cause, finds there is probable cause to believe that said child is a child in need of services and authorizes the filing of a Petition.

Upon consideration of IC 31-32-6-1, *et seq.*, the Court orders the public be excluded from all further proceedings.

Ordered this ____ day of _____, _____.

_____

Judge

STATE OF INDIANA

_____ COUNTY

In The Matter Of _____ CASE NO. _____

_____

A Child Alleged to be a Child in Need of Services

ORDER AUTHORIZING TAKING CHILD INTO CUSTODY

The Petitioner further requests the child be taken into custody, and the Court (having heard and considered sworn testimony) (having considered petitioner's affidavit filed herein) now finds :

1) That an emergency exists requiring the immediate action by the Court without benefit of a hearing.
2) Continuation of residence in the home of the parent/guardian would be contrary to the welfare of the child because _____
(Example: it appears the chld has been physically abused by the parent; it appears the residence of the parent is in such condition as to case immediate harm to the child)
3) That the physical or mental condition of the child will be seriously impaired or endangered if not immediately removed from the home and taken into protective custody and the safety of the child precludes the immediate use of family services to prevent the removal of the child;
4) That there is reason to believe the child is in need of services.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the County Office of Family and Children is authorized to take _____ child into immediate protective custody with the assistance of law enforcement pursuant to IC 31-34-2. Said child shall be placed in to foster care, the County Youth Shelter or appropriate placement with a relative. The County Office of Family and Children is authorized to expend funds for said child and obtain emergency medical attention.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that a detention hearing will be held on _____ at _____ o'clock __.M. and the County Office of Family and Children is directed to notify pertinent parties of the hearing, unless the child is released from detention.

Ordered this ____ day of _____, _____.

_____

Judge

STATE OF INDIANA

_____ COURT

In The Matter Of _____ CASE NO. _____

_____

A Child Alleged to be a Child in Need of Services

PETITION ALLEGING CHILD IN NEED OF SERVICES

The Petitioner alleges and states:

1. The child, _____, was born _____ and is _____ years of age.
2. The child resides at _____ with _____.
3. The names and addresses of the child's parents, guardian, or custodian are as follows:

Name	Parent, Guardian or Custodian	Address
_____	_____	_____
_____	_____	_____
_____	_____	_____

4. The citation to the section of the Indiana Juvenile Code that gives this Court jurisdiction in this proceeding is IC 31-30-1-1;

5. The child is a child in need of services as defined in IC 31-34-1, in that (include specific facts including date and location):

_____
_____
_____

(OPTIONAL)

(To be completed if the child is removed from his parent, guardian or custodian.)

6. That the child has been removed from the parent, guardian, or custodian.
   a. The following efforts were made to provide the (child) and/or the child's parent, guardian, or custodian with family services before the removal:_____ _____.
   b. Family services were not provided before the removal of the child, for the following reasons: _____ _____.

Wherefore, petitioner requests that the child be adjudged to be a Child in Need of Services and for any and all relief proper in the premises.

The undersigned affirms under the penalties of perjury that the foregoing statements and representations are true.

Dated: _____

_____

Signature of Petitioner

_____

Name and Title of Person signing Petition

C-6.07

STATE OF INDIANA

_____ COURT

In The Matter Of _____ CASE NO. _____

_____

A Child Alleged to be a Child in Need of Services

ORDER SETTING INITIAL HEARING ON PETITION AND FOR ISSUANCE OF SUMMONS

Comes now, _____, Attorney for _____, and files a Petition alleging that _____ is a child in need of services.

The Court sets this cause for Initial Hearing on _____ at _____ (A.M.) (P.M.) and orders the Clerk of this Court to issue a summons for the child _____ and for the following parent, guardian, custodian, guardian ad litem or other persons:

Name	Relationship	Address
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Dated: _____

_____

Judge

C- 6.08

STATE OF INDIANA

_____ COURT

In The Matter Of _____ CASE NO. _____

_____

A Child Alleged to be a Child in Need of Services

SUMMONS

To: _____

_____

(Insert above, name, address of child and the parent, guardian or custodian of child)

You are hereby notified that a Petition Alleging Child in Need of Services, attached hereto, has been filed in the above Court, charging the above named child with being a child in need of services, and you are hereby commanded to appear before the Judge of said Court at the Court House, Room _____, in _____, Indiana, on the ___ day of _____, _____, at _____o'clock ___.M., for an Initial Hearing and such further proceedings as may be ordered by the Court in this matter.

If you fail to appear as above commanded, you may be held in contempt of Court, and a warrant may be issued by the Court for your person, and the matter may be heard and determined in your absence.

Dated this ____ day of _____, _____.

(SEAL)

_____

Clerk Court

By: _____

Deputy Clerk

ACKNOWLEDGMENT OF SERVICE OF SUMMONS

The undersigned hereby waives the service of the above summons and voluntarily agrees to appear in Court at the time and place set forth above.

_____ _____

Date Signature

SUMMONS

STATE OF INDIANA) _____ COURT
) SS:
_____ COUNTY) CASE NO. _____

TO: _____
_____
_____

THE ABOVE PARENT, GUARDIAN, CUSTODIAN OR CHILD IS NOTIFIED THAT THE ATTACHED PETITION CLAIMS THAT SAID CHILD IS A CHILD IN NEED OF SERVICES, AND THAT:

1. The INITIAL HEARING and such further proceedings as may be ordered by the Court, on that PETITION will be held in the _____ Court on the _____ day of _____, __ ___ at _____ P.M.

2. At the INITIAL HEARING the Court will: a. Determine whether it is necessary to appoint a Guardian Ad Litem or Court Appointed Special Advocate for said child; b. Inform those present of: The nature of the allegations in the PETITION, The dispositional alternatives available to the Court if the child is adjudicated a Child in Need of Services. The fact that the parent, guardian, or custodian of the child may be required to participate in a program of care, treatment, or rehabilitation for the child be held financially responsible for any services provided for the parent, guardian, or child and may controvert any allegations made at the child's dispositional or other hearing concerning the parent's, guardian's, or custodian's participation, or may controvert any allegations concerning the parent's or guardian's financial responsibility for any services that would be provided.

3. You may hire your own attorney to represent you in this case.

4. The Court will ask you to admit or deny the allegations in the PETITION at the INITIAL HEARING.

5. If this SUMMONS is duly served upon you and you fail to appear for the INITIAL HEARING, a BODY ATTACHMENT (arrest order) may be issued to the Sheriff to have you brought before the Court and/or the Court may grant the _____ County Office of Family and Children the relief it has requested in said PETITION.

ORDER TO THE SHERIFF OF _____ COUNTY TO TAKE CHILD INTO CUSTODY

THIS ORDER IS OPTIONAL, AND IS VALID ONLY IF SIGNED BY THE JUDGE, MAGISTRATE, OR REFEREE

You are ORDERED to take into custody and deliver the child to the _____ County Office of Family and Children, to be held in shelter care detention until further order of the Court.

_____
Judge
_____ County

CLERK'S ISSUANCE DATE: _____, _____. _____, CLERK

BY: _____, DEPUTY

The following manner of service is hereby designated:

( ) Registered Mail,
( ) Certified Mail,
( ) By Sheriff as provided by law,
( ) Other, as follows:_____.
(If by mail, stamped addressed envelope with return receipt attached to be furnished by the attorney.)

ATTORNEY FOR _____ COUNTY OFFICE OF FAMILY AND CHILDREN:

ACKNOWLEDGMENT OF SERVICE OF SUMMONS

I received a copy of the above Summons and the PETITION attached on _____ day of _____, _____.

_____
Signature of Person Summoned

RETURN OF SUMMONS-CERTIFICATE OF MAILING (If Applicable)

I hereby certify that on the _____ day of _____, _____, I mailed a copy of this SUMMONS together with a copy of said Petition to the person summoned by (registered or certified) mail requesting a return receipt signed by the addressee only addressed to the person summoned at: _____ _____.

Dated: _____, ____. _____, CLERK

BY: _____, DEPUTY

RETURN OF SERVICE OF SUMMONS AND NOTICE BY MAIL (If Applicable)

I hereby certify that the foregoing SUMMONS with Return Receipt Requested, and copy of said PETITION herein was mailed on the _____ day of _____, _____, and that a copy of the Return Receipt was received on the _____ day of _____, _____, which copy is attached herewith.

Dated: _____, ____. _____, CLERK

BY: _____, DEPUTY

CERTIFICATE OF CLERK OF SUMMONS NOT ACCEPTED BY MAIL
(If Applicable)

I hereby certify that on the _____ day of _____, _____, a copy of said SUMMONS and a copy of said PETITION to the person summoned by (registered or certified) mail requesting a return receipt signed by the addressee only addressed to the person summoned at: _____, that address being the addressed furnished by the attorney for the County Office of Family and Children, and the same was returned without acceptance this _____ day of _____, _____, and I did deliver said SUMMONS and copy of said PETITION to the Sheriff of _____ County, Indiana.

Dated: _____, ____. _____, CLERK

BY: _____, DEPUTY

RETURN BY SHERIFF OR OTHER PERSON OF SUMMONS AND NOTICE
(If Applicable)

I hereby certify that I have served the within SUMMONS:

☐ By delivering on the _____ day of _____, _____, a copy of said SUMMONS and a copy of said PETITION to the person summoned at: _____ _____, that address being the address furnished by said attorney.

☐ By leaving on the _____ day of _____, _____, for the person summoned a copy of the SUMMONS and a copy of said PETITION at the respective dwelling house or usual place of abode: _____, that address being the address furnished by said attorney with _____, a person of suitable age and discretion residing therein.

☐ By _____ and by mailing a copy of the SUMMONS and a copy of said PETITION to the person summoned at his respective dwelling house or usual place of abode: _____ that being the last known address of the person summoned.

☐ This SUMMONS came to hand this _____ day of _____, _____, and the person summoned was not found this _____ day of _____, _____.

SHERIFF OF _____ COUNTY, INDIANA

BY _____ DEPUTY

SCOPE NOTE

Initial Hearing on Petition

SUMMONS AND NOTICE

An initial hearing shall be held on each petition.
I.C. 31-34-10.

There is no time limit prescribed for holding the initial hearing but it should be held without unreasonable delay. However, the first periodic review must be held the earlier of at least six months after the date of the child's removal from the child's parent, guardian or custodian, or at least six months after the date of the dispositional decree, whichever comes first. I.C. 31-34-21-2

A summons shall be issued for the child, for the parent(s), guardian, or custodian, or guardian ad litem, and for any other person necessary for the proceedings. A copy of the petition must accompany each summons. I.C. 31-34-10-2.

"Parent" means a biological or an adoptive parent. The term includes both parents, regardless of their marital status. I.C. 31-9-2-88

"Custodian" means a person with whom a child resides. I.C. 31-9-2-31(a)

Custodian may also mean any person responsible for the child's welfare who is employed by a public or private residential school or foster care facility. I.C. 31-9-2-31(b)

Noncustodial parent is entitled to summons and notice.
I.C. 31-9-2-88 and I.C. 31-34-10-2(b).

NOTE: If the parents do not appear at the initial hearing and they have received notice, the matter may be determined in their absence. The court may issue a writ of attachment to secure the parent's attendance.

A child may not waive service of summons.
I.C. 31-32-5-6.
Service of summons is not required if the person entitled to be served attends the hearing.
I.C. 31-32-9-1.

Any person, other than the child may waive service of summons if the person does so in writing.
I.C. 31-32-5-6

Personal Service must be made at least three (3) days before the hearing to which the person is summoned. Service by mail must be sent at least ten (10) days before the hearing.
I.C. 31-32-9-1

EXCLUSION

A child may be excluded from the initial hearing for good cause shown upon the record.
I.C. 31-32-6-8

The Court shall determine whether the public should be excluded from a juvenile proceeding.
I.C. 31-32-6-2

If the public is to be excluded from a juvenile proceeding, the judge must make findings of fact and place a written exclusion order in the file of the proceedings. I.C. 31-32-6-6. An oral statement by the judge on the record will not suffice. **Taylor v. State,** 438 N.E.2d 275 (Ind. 1982).

GUARDIAN AD LITEM/CASA

Court shall first determine whether it is appropriate to appoint a guardian ad litem or court appointed special advocate. They must be appointed under certain circumstance.
I.C. 31-32-3.
I.C. 31-34-10-3.

It is mandatory that a guardian ad litem or court appointed special advocate be appointed if the following allegations exist:

1. If the child substantially endangers the child's own health or the health of another. I.C. 31-34-10-3(1)(A)

2. If the child is born with fetal alcohol syndrome or any amount of a controlled substance or a legend drug in the child's body or if the child's condition is caused by the mother's use of alcohol, controlled substance or a legend drug during pregnancy. I.C. 31-34-10-3(1)(B)

3. If there has been inability, refusal, or neglect of the child's parent, guardian or custodian to supply the child with the necessary medical care. I.C. 31-34-10-3(1)(C)

4. If the location of both of the child's parents is unknown. I.C. 31-34-10-3(1)(D).

The Court shall appoint a guardian ad litem or court appointed special advocate if the parent, guardian, or custodian denies the allegations of the petition. I.C. 31-34-10-3(3)

The Court may appoint a guardian ad litem or court appointed special advocate in all other cases at any time. I.C. 31-32-3-1, I.C. 31-34-10-3(2)(A-G)

USER FEE

The Court may order the child's parent as the guardian of the child's estate any child for whom a

guardian ad litem or court appointed special advocate is appointed to pay $100.00 user fee. I.C. 31-40-3-1

RIGHTS OF CHILD AND PARENT

Rights of child. I.C. 31-32-2-1
Except when excluded from a hearing a child is entitled to:

1. to cross-examine witnesses;
2. to obtain witnesses or tangible evidence by compulsory process;
3. to introduce evidence on his/her own behalf.

Any rights of the child may only be waived by complying with the statute on waiver of rights. I.C. 31-32-5-1 and 2.

Rights of parent, guardian or custodian. I.C. 31-32-2-3.

1. to cross-examine witnesses;
2. to obtain witnesses or tangible evidence by compulsory process;
3. to introduce evidence on his/her own behalf.

I.C. 31-34-4-6: If a child is taken into custody, the county office of family and children shall advise the parent, guardian or custodian in writing of the following rights:

1. the right to have a detention hearing held by the Court within forty-eight hours after the child's removal from the home and to request return of the child at the hearing;

2. at each court proceeding:
   a. to be represented by an attorney;
   b. cross examine witnesses; and
   c. to present evidence on their own behalf;

3. to not make statements that may incriminate themselves and that any incriminating statement may be used during a court proceeding alleging that he child is in need of services;

4. the right to be represented by court appointed attorney if the court finds that the parent, guardian or custodian does not have sufficient financial means for obtaining representation as described in I.C. 34-10-1-1;

5. the right to request to have the case reviewed by child protection team under I.C. 31-33-3-6; and,

6. a petition to terminate parental rights must be filed whenever a child has been removed from the child's parent, and has been under the supervision of the county

office of family and children for at least fifteen months of the most recent twenty-two months.

RIGHT TO APPOINTED COUNSEL

I.C. 31-34-4-6 A parent, guardian, or custodian has the right to be represented by court appointed attorney if the court finds that the parent, guardian, or custodial does not have sufficient financial means for obtaining representation as described in I.C. 34-10-1-1.

If a parent requests appointment of counsel based on his or her economic status, the trial court must then hold a hearing to determine whether the parent has sufficient means to hire private counsel. If the trial court is satisfied that the parent has insufficient funds, the court shall appoint counsel to be paid at public expense. I.C. 34-1-1-3. **E.P. v. Marion Cty. Office of Fam. and Children**, 653 N.E.2d 1026 (Ind. Ct. App. 1995)

Without court appointed counsel, due process was denied where parent had diminished capacity and termination proceedings were likely. **Matter of R.R.**, 587 N.E.2d 1341 (Ind. Ct. App. 1992)

A parent who is entitled to representation by counsel may waive that right if he or she does so knowingly and voluntarily. I.C. 31-32-5-5.

ADVISE OF RIGHTS AND OBLIGATIONS

The court shall inform the child, if the child is at an age of understanding, and the child's parent, guardian, or custodian, of the nature of the allegations in the petition and the dispositional alternatives available to the court if the child is adjudicated a child in need of services I.C. 31-34-10-4. *See:* I.C. 31-34-20-1 [dispositional decrees]; I.C. 31-34-20-3 [parental participation].

I.C. 31-34-10-5: The court shall inform the parent or guardian of the estate that if the child is adjudicated a child in need of services:

(1) the parent, guardian, or custodian of the child may be required to participate in a program of care, treatment, or rehabilitation for the child;
(2) the parent or guardian may be held financially responsible for services provided for the parent, guardian, or child; and
(3) the parent, guardian, or custodian of the child may controvert the following:
(A) allegations made at the child's dispositional or other hearing concerning the parent's, guardian's, or custodian's participation.
(B) allegations concerning the parent's or guardian's financial responsibility for services that would be provided.

It is error not to advise the child and parents of rights and dispositional alternatives. **Matter of Lemond,** 413 N.E.2d 228 (Ind. 1980).

ADMISSION OR DENIAL

Except when the petition if filed under I.C. 31-34-1-6 [child endangers own health or health of another], the court must determine whether the parent, guardian, or custodian admits or denies the allegations of the petition. A failure to respond constitutes a denial. I.C. 31-34-10-6.

If the petition alleges that the child is a CHINS because the child substantially endangers the child's own health or the health of another I.C. 31-34-1-6, the court must determine whether the child admits or denies the allegations of the petition. A failure to respond constitutes a denial. I.C. 31-34-10-7.

IMPLICATIONS OF ADMISSION

A mother's admission of CHINS petition allegations did not collaterally estop her from contesting those allegations in the subsequent proceeding to terminate her parental rights. **McKinney v. Greene Co. OFC,** 675 N.E.2d 1134 (Ind. Ct. App. 1997).

The trial court could admit into evidence in a prosecution for child molesting the defendant's CHINS Agreed Entry in which the defendant admitted to child molesting and agreed to participate in an incest program. **Thomas v. State,** 612 N.E.2d 604 (Ind. Ct. App. 1993)

NOTE: The Benchbook Committee recommends that the parents be advised that any admission by them can be used against them in later proceedings. *See DIALOGUE FOR INITIAL HEARING*.

PROCEDURE UPON ADMISSION

If the parent, guardian or custodian admits the allegations of the petition the court shall enter judgment and schedule a dispositional hearing. I.C. 31-34-10-8

A dispositional hearing can be held immediately after the initial hearing if the parties listed under I.C. 31-34-10-9 consent.

PROCEDURE UPON DENIAL

If the allegations are denied a fact finding hearing shall be held. I.C. 31-34-11-1.

The fact finding hearing can be held immediately after the initial hearing if all parties consent. I.C. 31-34-10-9(b) and (c).

EFFORTS TO REUNIFY OR PRESERVE FAMILY
(Reasonable efforts finding)

At any phase of a child in need of services proceeding the court may make a finding that reasonable efforts to reunify or preserve a family are not required under I.C. 31-34-21-5.6. If the court adjudicated a child to be a child in need of services based on facts as described in I.C. 31-34-21-5.6, then the court may find that reasonable efforts to reunify a child with the child's parent, guardian or custodian or preserve the family are not required. A permanency hearing must be held within thirty (30) days. I.C. 31-34-21-7. See C-10.01, Section I(E). *See* FORM C-10.06.

COSTS OF SERVICES SHALL BE ASSESSED

I.C. 31-40-1-2 requires the costs of services be assessed to the parents. I.C. 31-40-1-3 requires the court to order the parent to prepare a child support worksheet prior to the dispositional hearing.

LOCAL COORDINATING COMMITTEE

If the judge or the county office of family and children believe a restrictive placement will be made, the local coordination committee may be alerted. I.C. 31-38.

LEGAL SETTLEMENT FOR SCHOOL PURPOSES

The court shall make a finding of legal settlement of the child in any decree when the court places a child or changes the placement of a child. This affects transfer tuition fees. I.C. 31-34-20-5, I.C. 31-34-21-10, I.C. 31-9-2-75, I.C. 20-8.1-6.1-1

The court shall, within ten days of placement, comply with the reporting requirements concerning the legal settlement of the child. I.C. 20-8.1-6.1-5.5.

SOCIAL SECURITY NUMBERS OF CHILDREN

Social Security Numbers and dates of birth of each should be included in the court's order to facilitate the processing of any support order entered in the case.

PROCEDURE

A. Once a petition alleging that a child is a child in need of services is filed, an initial hearing must be held without unreasonable delay.

B. The child may be excluded from further proceedings for good cause shown upon the record prior to, or during the initial hearing.

USE FORM 7.07

C. If the public is to be excluded from a court proceeding certain findings must be made.

SEE FORM 7.05 AND 7.06

D. The court must first determine if a guardian ad litem or court appointed special advocate should be appointed for the child. They must be appointed under certain circumstances.

USE FORM 7.04

E. The court should inform the child, if the child is of an age of understanding, and the child's parent, guardian or custodian of (1) the nature of the allegations in the petition; (2) the rights of the child; (3) the rights of the parent, guardian, or custodian; (4) the possible dispositions for the child should the child be found to be a child in need of services; and (5) the potential for termination of parental rights.

USE INITIAL HEARING DIALOGUE

F. The court should inquire if the parent, guardian, or custodian wish to retain counsel to aid them in the proceedings. The parent, guardian, or custodian may also request appointment of counsel based on economic status and then the court must hold a hearing.

USE FORMS 7.03, 7.05 or 7.06
USE INITIAL HEARING DIALOGUE

G. The court should inform the parent, guardian, or custodian that if the child is found to be a child in need of services, that the parent, guardian or custodian (1) may be required to participate in a program of care, treatment or rehabilitation; and (2) may be required to contribute financially to the care, treatment and rehabilitation of the child. A separate petition may be filed to require the parent's participation in a plan of care, treatment and rehabilitation

and that the parent, guardian, or custodian will be given an opportunity to controvert any allegations in that petition at the dispositional or other hearing and may controvert any allegations concerning financial responsibility for any service that would be provided.

H. The court should determine if the parent, guardian or custodian admits or denies the allegations of the petition filed under I.C. 31-34-1. If the denial is entered, the court should consider setting deadlines for completing discovery and other pre-hearing motions.

I. If the petition alleges that a child is substantially endangering the child's own health or the health of another [I.C. 31-34-1-6] the court should determine if the child admits or denies the allegations in the petition.

J. If the court believes that a restrictive placement will be made, the office of family and children and members of the local coordinating committee may be alerted according to I.C. 31-38.

STATE OF INDIANA
_____ COURT

In The Matter Of: CASE NO: _____

_____
A Child Alleged To Be A Child
In Need Of Services

ORDER CONTINUING INITIAL HEARING

The (_____ County Office of Family and Children) (State of Indiana) appears by counsel, _____, and by (Family Case Manager)(Intake Officer) _____, and the child _____, appears in person (is excluded for good cause shown upon the record). The parent(s) (guardian) (custodian), _____, appear in person.

[ ] Under I.C. 31-32-6-2, the public is excluded from all proceedings in this case.

The CHINS petition comes on for Initial Hearing.

The Court finds:

[ ] it is appropriate to appoint a guardian ad litem or court appointed special advocate for the child and now appoints _____.

[ ] it is appropriate to appoint a guardian ad litem or court appointed special advocate for the child and takes the specific appointment under advisement.

[ ] it is not appropriate to appoint a guardian ad litem or court appointed special advocate at this time for the child.

The Court advises the parent(s) (child) (guardian) (custodian) of the material allegations of the petition, the rights of the parent(s) and child, and the right to be represented by counsel.

_____ requests a continuance to obtain counsel.

-or-

_____ requests appointed counsel, and the court holds hearing and finds that the parent has insufficient means to hire private counsel, and appoints _____ to represent the parent.

The Initial Hearing is now continued and reset for the _____ day of _____, ____, at _____ __.M. and the parties are ordered to return to court at said date and time without further notice.

The Court ORDERS the child to remain under the supervision of _____ and that the child remain in placement at _____.

The legal settlement of the child is _____ and the _____ County Office of Family and Children shall provide notice required by I.C. 20-8.1-6.1-5.5.

SO ORDERED by the court this _____ day of _____.

_____
Judge

Distribution:

STATE OF INDIANA
_____ COURT

In The Matter Of: CASE NO: _____

_____
A Child Alleged To Be A Child
In Need Of Services

ORDER OF APPOINTMENT OF CASA

The Court now finds that a Court Appointed Special Advocate (hereinafter CASA) is necessary and desirable to represent and protect the interest of the child in the above captioned case.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court as follows:

1. _____ is hereby appointed CASA for the child named in this proceeding and shall act in that capacity as an officer of this Court for the purpose of representing the child's interest in this case. As such officer of the Court, the CASA may be represented by counsel and shall be entitled to submit evidence to the Court, examine and cross-examine witnesses, and be served copies of all matters filed with the Court by any party.

2. Pursuant to I.C. 31-33-15-1 and 2, I.C. 31-33-2-5 and I.C. 31-39-2-3(a), upon presentation of this Order to any agency, hospital, organization, school, person or office, including, but not limited to, the Division or local Office of Family and Children, any mental health agency or practitioner, any health care provider, physician, psychiatrist, psychologist, social worker or law enforcement agency, the aforementioned shall permit the CASA to inspect and/or copy any records, reports, test results, x-rays, photographs or other material relevant to the case, the child, either of the parents, or any other person responsible for the child's custody, or welfare, without the consent of the child or the parent(s), guardian, or custodian.

3. The CASA appointed herein shall maintain all information received from any such source as confidential and shall not disclose same except in reports to this Court and to other parties in this case.

4. The CASA shall appear in person or by its Director(s), unless excused by the Court, at all hearings or proceedings scheduled in this case and assure the proper representation of the child at any proceeding.

5. The CASA shall be notified of all hearings, staffing, investigations, depositions or other proceedings concerning the children and shall be notified prior to any action taken on behalf of the child by any party.

6. Any documents, records, reports, test results, x-rays, photographs or other material received by the CASA from any source and remaining in the hands of the CASA upon termination of this case, shall be sealed and turned over to this Court for filing outside the record of this case.

7. The parent(s) _____ (is)(are) ordered to pay the sum of $100.00 within thirty days as a user fee for deposit by the probation department into the Court Appointed Advocate Fund.

SO ORDERED this ____ day of _____, _____.

_____
Judge

Distribution:

STATE OF INDIANA
_____ COURT

In The Matter Of: CASE NO: _____

_____
A Child Alleged To Be A Child
In Need Of Services

ORDER ON INITIAL HEARING
Admissions of CHINS

The (_____ County Office of Family and Children) (State of Indiana) appears by counsel, _____, and by (Family Case Manager)(Intake Officer) _____, and the child _____, appears in person (is excluded for good cause shown upon the record). The parent(s) (guardian) (custodian), _____, appear in person.

[ ] Under I.C. 31-32-6-2, the public is excluded from all proceedings in this case.

The CHINS petition comes on for Initial Hearing.

The Court finds:

[ ] it is appropriate to appoint a guardian ad litem or court appointed special advocate for the child.

[ ] it is not appropriate to appoint a guardian ad litem or court appointed special advocate at this time for the child.

The Court advises the parent(s) (child) (guardian) (custodian) of the material allegations of the petition, the rights of the parent(s) and child, and the right to be represented by counsel, (and counsel being present), (and there being a waiver of counsel enter freely and voluntarily), this matter proceeds to initial hearing.

The Court having informed those present of their legal rights and having further advised those present of the matters required by I.C. 31-34-10-4 and 5, finds:

The child's date of birth is _____ and the child is _____ years old.

[ ] the parent(s) (guardian) (custodian) admit(s) the allegations of the petition alleged under I.C. 31-34-1-1 through 5, 7, 8.

[ ] the child admits the allegations of the petition alleged under I.C. 31-34-1-6.

[ ] the parent(s) (guardian) (custodian) admit(s) the allegations of the petition alleged under I.C. 31-34-1-10 or 11.

[ ] This matter should be referred to the local coordinating committee due to the possibility of a restrictive placement being made.

[ ] The legal settlement of the child is _____ and the _____ County Office of Family and Children should provide notice required by I.C. 20-8.1-6.1-5.5.

An admission of the allegations of the petition having been entered, the child is now adjudged a Child In Need of Services as defined by I.C. 31-34-1.

[ ] By agreement of the parties, an immediate Dispositional Hearing is requested and held.

[ ] The _____ County Office of Family and Children prepare and file a Predispositional Report with the Court with a copy to the respective parties ___ days prior to the dispositional hearing. The court sets a Dispositional Hearing in this case for the ___ day of _____, _____, at_____ _.m. and the parties are ordered to return to court at said time and date without further notice.

[ ] The person preparing the predispositional report shall confer with individuals who have expertise in professional areas related to the child's needs in the areas of appropriate care, treatment, rehabilitation or placement.

[ ] The removal of the child was authorized and necessary under IC 31-34-2-3 to protect the child; continuation of residence in the home of the parents/guardians would be contrary to the welfare of the child because: _____
_____

[ ] Reasonable efforts to reunify or prevent the removal of the child from the home were:
_____
_____.

The statements of reasonable efforts as set forth in the pleadings and papers of the County Office of Family and Children filed herein are incorporated by reference.

[ ] Reasonable efforts to reunify a child with the child's parent, guardian or custodian or preserve the child's family are not required. In support thereof the Court finds that _____. The _____ County Office of Family and Children is ordered to complete a permanency plan pursuant to I.C. 31-34-21-5.7 within thirty days. A permanency hearing is hereby set for ____ day of_____, at _____ ___.m.

Each parent is ordered to furnish the Court with an accurately completed and current child support obligation worksheet on the same form that is prescribed by the Indiana Supreme Court for child support orders, pursuant to I.C. 31-40-1-3.

The child shall remain under the supervision of _____ and that the child remain in placement at _____.

SO ORDERED this ____ day of _____, _____.

_____
Judge

Distribution:

STATE OF INDIANA
_____ COURT

In The Matter Of: CASE NO: _____

_____
A Child Alleged To Be A Child
In Need Of Services

ORDER ON INITIAL HEARING
Denial of CHINS

The (_____ County Office of Family and Children) (State of Indiana) appears by counsel, _____, and by (Family Case Manager)(Intake Officer) _____, and the child _____, appears in person (is excluded for good cause shown upon the record). The parent(s) (guardian) (custodian), _____, appear in person.

[ ] Under I.C. 31-32-6-2, the public is excluded from all proceedings in this case.

The CHINS petition comes on for Initial Hearing.

The Court finds:

[ ] it is appropriate to appoint a guardian ad litem or court appointed special advocate for the child.

[ ] it is not appropriate to appoint a guardian ad litem or court appointed special advocate at this time for the child.

The Court advises the parent(s) (child) (guardian) (custodian) of the material allegations of the petition, the rights of the parent(s) and child, and the right to be represented by counsel, (and counsel being present), (and there being a waiver of counsel enter freely and voluntarily), this matter proceeds to initial hearing.

The court having informed those present of their legal rights and having further advised those present of the matters required by I.C. 31-34-10-4 and 5, finds as follow:

[ ] the parent(s) (guardian) (custodian) enters a denial of the allegations.

[ ] the child enters a denial of the allegations under I.C. 31-34-1-6.

[ ] The legal settlement of the child is _____ and the _____ County Office of Family and Children should provide notice required by I.C. 20-8.1-6.1-5.5.

A denial of the allegations of the petition having been entered:

[ ] A Fact Finding Hearing be set in this case for the _____ day of _____, _____, at _____ __.M. and the parties are ordered to return to court at said time and date without further notice.

[ ] By agreement of the parties, an immediate Fact Finding hearing is requested and held.

The child shall remain under the supervision of _____ and that the child remain in placement at _____.

[ ] The removal of the child was authorized and necessary under IC 31-34-2-3 to protect the child; continuation of residence in the home of the parents/guardians would be contrary to the welfare of the child because :_____
_____
_____

[ ] Reasonable efforts to reunify or prevent the removal of the child from the home were:
_____
_____

The statements of reasonable efforts as set forth in the pleadings and papers of the County Office of Family and Children filed herein are incorporated by reference.

[ ] A denial having been entered by the parent(s), guardian or custodian an appointment of a guardian ad litem (court appointed special advocate) for the child under I.C. 31-34-10-3(3) is required. The court now appoints _____-.

SO ORDERED this ____ day of _____, _____.

_____
Judge

Distribution:

C-7.07

STATE OF INDIANA
_____ COURT

In The Matter Of: CASE NO: _____

_____
A Child Alleged To Be A Child
In Need Of Services

MOTION FOR EXCLUSION OF CHILD

Comes now the _____ County Office of Family and Children (State of Indiana), by counsel, and pursuant to I.C. 31-32-6-8 shows to the court as follows:

1. This case is presently set for hearing on the _____ day of _____, ____, at _____ __.M.

2. This proceeding involves a child in need of services, namely, _____, born _____, and who is _____ years of age.

3. Said child would neither benefit from or contribute to the hearing mentioned above by being present due to:
_____
_____

IT IS THEREFORE requested that the child be excluded from further hearings for good cause.

Dated: _____ _____
(Attorney)

ORDER

The Court grants the above motion and excludes the child until further order of the Court.

SO ORDERED this ____ day of _____,_____.

_____
Judge

Distribution:

DIALOGUE FOR INITIAL HEARING
CHINS

Court shall first determine whether it is appropriate to appoint a guardian ad litem or court appointed special advocate. They must be appointed under certain circumstances.

I.C. 31-32-3.
I.C. 31-34-10-3.

It is mandatory that a guardian ad litem or court appointed special advocated be appointed if the following allegations exist.

1. If the child substantially endangers the child's own health or the health of another. I.C. 31-34-10-3 (1)(A)
2. If the child is born with fetal alcohol syndrome or any amount of a controlled substance or a legend drug in the child's body or if the child's condition is caused by the mother's use of alcohol, controlled substance or a legend drug during pregnancy. I.C. 31-34-10-3(1)(B)
3, If there has been inability, refusal, or neglect of the child's parent, guardian or custodian to supply the child with the necessary medical care. I.C. 31-34-10-3(1)(C)
4. If the location of both of the child's parents is unknown. I.C. 31-34-10-3(1)(D).

The Court may appoint a guardian ad litem or court appointed special advocate in all other cases at any time. I.C. 31-32-3-1.

DIALOGUE

Opening:

This is Case No. _____in the _____Court, entitled In the Matter Of _____ , a child alleged to be in need of services. We are here today pursuant to a petition authorized to be filed by this court on _(Date)__.

Parties Present:

The record should show the appearance of _____ (parent, guardian or custodian), (in person)(and with counsel), _____ (child), and by _____ _____ (county office of family and children)(deputy/prosecuting attorney).

[NOTE: If the child is not present, the Court shall determine the reasons for the absence. If the Court decides to exclude the child from the proceeding, the court shall explain the reason for doing so.]

Child's Age:

(Parent) would you please state the full name of the child, his/her date of birth and age.

Copy of Petition:

(Parent and Child) Have you received a copy of the petition filed herein? (If not, time should be given to read the petition.)

Nature of the Allegation:

(Parent)(and Child if of age of understanding) A petition has been filed alleging that your child is a child in need of services in that : (READ MATERIAL PART OF PETITION) Do you understand the allegations? _____

Advisement of Rights:

_____(Parent) (and _____ Child if of age of understanding) you are advised that you have the following rights in a case of this type:

1. You have a right to know exactly what is the basis for the charge that your child is a child in need of services. The basis is set forth in the petition which has been read or summarized for you.

2. In order for the petitioner to have custody or other control over your child and enter a dispositional decree which may include placing the child with someone else, the petitioner must prove by a preponderance of the evidence that your child is a child in need of services as alleged in the petition.

3. You have a right to deny that your child is a child in need of services and to have a trial, called a fact-finding hearing, on this matter.

4. You also have a right to: (a) present witnesses or other evidence in your own behalf; (b) to have the court issue subpoenas or orders to compel persons to appear which you wish to testify or to produce other evidence; and (c) to cross-examine witnesses that may be called by the petitioner.

Do you understand these rights? _____

5. You also have a right to be represented by counsel. You may hire your own attorney to represent you or you may waive or give up your right to counsel if you do so knowingly and voluntarily. If you want to be represented by counsel but do not feel you can afford to hire private counsel, the court will hold a hearing on your request. If the court finds you do not have sufficient funds, the court will appoint counsel to represent you.

Do you understand your right to counsel? _____

Do you wish to waive or give up your right to counsel to represent you at this time?_____

NOTE: The record should show the waiver to be knowingly and voluntarily given, i.e. (1) has anyone made any promises or given anything of value, (2) have there been any offers of leniency or special treatment, (3) has anyone forced or threatened or placed you in fear, to get you to waive the right to counsel.

At this time, do you want a continuance to obtain your own attorney? _____

Are you requesting the court to appoint counsel for you? _____

> **NOTE:** If the answer is yes, the Court should hold a hearing to determine whether the parent has sufficient means to hire private counsel, or should have appointed counsel due to special circumstances.

Right to Remain Silent:

> This is a civil and not a criminal proceeding. However, if the State has filed or chooses to file criminal charges against you, anything you say may and can be used against you in such a criminal proceeding. Therefore, you do have the right to remain silent.

Dispositional Alternatives:

> Should your child be found to be a child in need of services there are a number of dispositional alternatives available to the Court:
>
> 1. supervision of the child while the child remains in the child's own home;
>
> 2. receive outpatient treatment at a social service agency, or a psychological, psychiatric , medical, or educational facility, or from an individual practitioner;
>
> 3. removal of the child from the child's own home and place the child with a suitable relative, family foster home or other shelter care facility which would include authorization to control and discipline that child;
>
> 4. award wardship to any person or shelter care facility, including wardship to the county office of family and children;
>
> 5. partial or complete emancipation of the child;
>
> 6. receive family services;
>
> 7. restrain a party from direct or indirect contact with the child;
>
> 8. enter a protective order under I.C. 31-32-13 to control the conduct of <u>any</u> person in relation to the child.

Finally, you should be aware that your parental rights could be terminated. This would require a separate petition being filed for that purpose alone and a separate hearing on the matter. That is not the subject of these proceedings today. However, one possible end result of a finding that your child is in need of services is that your parental rights may be terminated against your will.

The Office of Family and Children is required to make "reasonable efforts to preserve and reunify families" in order to prevent or eliminate the need for removing a child from home or to make it possible to return a child safely to his or her home. However, you should be aware that the law also

provides that reasonable efforts toward preservation and reunion are not required under certain situations which can be summarized as follows:

1. Convictions of the parent for specific crimes against the parent's child or step-child or other parent.

2. Involuntary termination of the parent-child relationship to a sibling.

3 Abandonment of an infant less than twelve months of age.

Once the Court enters a finding that reasonable efforts to reunify are not required, termination of parental rights can then be started even if the child has not been removed from the home for at least six months under a dispositional decree. Also, once the Court enters a finding that reasonable efforts to reunify are not required, a permanency hearing must be held within 30 days which may include a recommendation that the parent-child relationship be terminated. If the Court approves that permanency plan, a petition to terminate the parent-child relationship must be filed.

The law further provides that a petition to terminate the parent-child relationship must be filed when a child has been removed from the child's parent and has been under the supervision of the County Office of Family and Children for at least 15 months of the most recent 22 months.

Do you understand the possible dispositions the court can make? _____

Obligations of Parent, Custodian or Guardian:

The court may order:

1. you to participate in a program of care, treatment or rehabilitation for the child;

2. you to be financially responsible for any services provided for the child or for yourselves;

3. you to obtain assistance in fulfilling your obligations as parent, guardian, or custodian; that you provide specific care, treatment or supervision for the child; that you work with any given person or agency to provide care, treatment and rehabilitation for your child;

You may dispute any allegations made at the dispositional or other hearings concerning your participation and you may dispute any allegations concerning your financial responsibility, or the need for your participation in services.

A separate petition may be filed to require your participation, or to require you to refrain from direct or indirect contact with the child, and you are entitled to be heard on that petition.

The court cannot order you to be financially responsible unless it finds that you are able to pay for the services; that the payment would not make an unreasonable hardship upon you or the family; and that the payment would serve the ends of justice.

If an order is entered and you fail to comply with that order, you can be held in contempt of court and

punished for contempt for such failure. Also, your parental rights could be terminated.

Do you understand? _____

Admission or Denial:

I will now be asking you whether you admit or deny the allegations in the petition. You do not have to admit to anything, but if you do **admit** the allegation you are stating that your child is a child in need of services, you give up your right to a trial or a fact finding hearing and judgment will be entered that your child is a child in need of services.

Do you understand that you do not have to admit to anything and that if you **deny** the allegations in the petition, you are entitled to a hearing as quickly as possible? _____

I read you the petition which has been filed in this court. Do you **admit or deny** the allegations of the petition? Answer _____

> **Note:** The parent, guardian or custodian admits or denies the petition filed under I.C. 31-34-1-1 through 5, 7 and 8. The child admits or denies the allegation under I.C. 31-34-1-6. The parent, guardian or custodian admits or denies the petition filed under I.C. 31-34-1-10 or 11.

*****

Denial:

> Let the record show that the parent(s) (or child) **denies** the allegations in the petition.
>
> The Fact Finding hearing is set for the _____ day of _____, _____ , at _____ o'clock __ .M. for the introduction of evidence and the determination of whether the allegations of the petition are true. (If the Court has not yet appointed a GAL/CASA, the Court should appoint a guardian ad litem or court appointed special advocate at this time.) All parties are ordered to return to Court on that date and time without further notice.
>
> > **Note:** If the denial is entered, the court should consider setting deadlines for completing discovery and other pre-hearing motions.

OR

Admission:

> Let the record show that the parent(s)(or child) **admits** the allegation in the petition.
>
> > **NOTE:** The Benchbook Committee recommends a brief factual basis be established on the record.

Finding and Judgment:

> Upon the admission of the parent(s) (or child) the Court now finds that _____

is a Child in Need of Services and judgment is entered accordingly.

Predispositional Report Ordered:

The Court directs the County Office of Family and Children (or probation department) to conduct a dispositional investigation and to report the findings and recommendations. All parties are ordered and directed to return to court for a Dispositional Hearing on the ____ day of _____ , _ at _____ o'clock __.M.

NOTE: If the Predispositional report is already filed, the court can proceed to the dispositional hearing with the consent of all parties.

NOTE: Alternative reports may be prepared by the child or parent(s), guardian or custodian, guardian ad litem or court appointed special advocate.

Custody Pending Disposition:

(The court may need to make interim orders concerning custody, physical or mental examinations or other evaluations)

Legal Settlement:

[If there is now or has already been, an out-of-home placement, the court needs to make a finding as to legal settlement for education purposes.]

Local Coordinating Committee:

[If a restrictive placement will be considered, the matter may be referred to the local coordinating committee for review.]

SCOPE NOTE
Fact-Finding

A. Appointment of Guardian ad Litem or Court Appointed Special Advocate.

IC 31-34-10-3 establishes under what conditions a GAL or CASA must be appointed and what conditions make the appointment discretionary with the court. If the parents, guardian or custodian deny the allegations, the Court shall appoint a GAL or CASA.
IC 31-34-10-3(3).

The Committee recommends that a GAL or CASA be appointed in every CHINS case.

B. Burden of Proof.

The CHINS proceeding is civil in nature and the petitioner must prove the relevant allegations by a preponderance of the evidence.
IC 31-34-12-3.

C. Right to Counsel.

The parent, guardian, or custodian has the right to be represented by a court appointed attorney upon the request of the parent, guardian, or custodian if the court finds that the parent, guardian, or custodian does not have sufficient financial means for obtaining representation. IC 31-34-4-6(a).
See also **Matter of E.P.**, 653 N.E.2d 1026 (Ind. Ct. App. 1995).

D. Change of Judge.
Trial Rule 76 automatic change of judge rule prevails over the juvenile court change of judge statute, IC 31-32-8-1 and 2. **State ex rel. Gosnell v. Cass Circuit Court**, 577 N.E.2d 957 (Ind. 1991).

E. Bench Trial.
The Fact-Finding Hearing is a trial to the Court. The parties are not entitled to trial by jury. **Matter of E.P.**, 653 N.E.2d 1026 (Ind. Ct. App. 1995).

F. Evidentiary Issues.
1. Videotape and closed circuit television testimony of a child may be admissible in certain circumstances. IC 31-34-13.

2. A rebuttable presumption is raised that a child is a CHINS if the petitioner introduces competent evidence that a child has been injured while under the care of a parent and the injury would not ordinarily be sustained except for the act or omission of a parent. IC 31-34-12-4.

3. A CHINS petition puts into issue the character of a parent such that prior evidence of a parent's acts or omissions are relevant evidence. **Matter of J.L.V. Jr.**, 667 N.E.2d 186 (Ind. Ct. App. 1996).

4. Evidence that a prior or subsequent act by a parent injured any child is admissible. IC 31-34-12-5.

5. The physician-patient privilege or the husband-wife privilege may not be invoked to exclude evidence. IC 31-34-12-6.

G. Sufficiency of evidence.

The Court of Appeals permitted the trial court to base a CHINS finding on acts of abuse which were committed in the past or on a child not subject to the CHINS petition.
Roark v. Roark, 551 N.E. 2d 865 (Ind. Ct. App. 1990).

Punishment of child by forcing her to stand with her nose to the wall for a long period of time did not endanger her health and was insufficient to find her to be a CHINS.
Matter of E.M., 581 N.E. 2d 948 (Ind. Ct. App. 1991).

Financial inability to pay medical expenses by itself is insufficient to initiate or continue a CHINS proceeding. **Lake County Division of Family and Children Services v. Charlton**, 631 N.E. 2d 526 (Ind. Ct. App. 1993).

H. Restrictive Placement.

If the Court wishes the local coordinating committee to review a potential restrictive placement, the Court should refer the case to the county office of family and children which shall convene a meeting of the local coordinating committee to make a recommendation regarding the placement. IC 31-38-2-2.

I. Two orders are presented:

Order finding child is a Child In Need of Services:

USE FORM C-8.02

Order finding a child is not a Child In Need of Services:

USE FORM C-8.03

J. WHEN REUNIFICATION OF THE FAMILY IS NOT REQUIRED

In response to federal law passed in 1997, the Indiana "Adoption and Safe Families Act" *(SEA 425)* was enacted in 1998. The underlying purpose of the law is to provide permanency for children. Upon finding certain conditions exist, the focus of the CHINS case shifts from reunification of the family to permanent resolution for the child.

Reasonable efforts to reunify or preserve a family are not required if the court finds any of the following conditions exist:

(1) a parent, guardian or custodian has been convicted of selected crimes;
(2) parental rights of a parent have been involuntarily terminated with regards to a sibling;
(3) the child is an abandoned infant.

See C-10.01, Section I(E). **I.C. 31-34-21-5.6.** *See* FORM C-10.06.

STATE OF INDIANA

_____ COURT

In The Matter Of : _____ CASE NO. _____

_____

A Child Alleged to be a Child in Need of Services

ORDER ON FACT-FINDING HEARING ON CHINS PETITION

Order Finding Child is a Child in Need of Services

The State of Indiana appears by _____, (attorney for County Office of Family and Children) (Deputy/Prosecuting Attorney). The child, _____ , appears in person (is excluded for good cause shown upon the record). The parent(s) (guardian) (custodian) , _____, appears in person and by counsel, _____. The GAL/CASA, _____ appears.

The CHINS petition comes on for Fact-finding Hearing. Opening statements are heard. Evidence is introduced by the parties. Closing statements are heard.

The Court now finds that the child's date of birth is_____.

The Court now finds that said child is a child in need of services as defined by IC 31-34-1- ___.

[ ] The Court Orders _____ to appear and file a Predispositional Report with the court and respective parties _____ days prior to the dispositional hearing and made available according to IC 31-34-18-6. The Court schedules a Dispositional Hearing in this case for the _____ day of _____, _____, at _____ o'clock _____.M.

[ ] The person preparing the predispositional report shall confer with individuals who have expertise in professional areas related to the child's needs in the areas of appropriate care, treatment, rehabilitation or placement.

[ ] The child shall be in appropriate placement and receive appropriate services, pending disposition, as follows: _____
_____
_____
_____

[ ] Refers possibility of restrictive placement to local coordinating committee for review.

[ ] By agreement conducts an immediate Dispositional Hearing.

[ ] The legal settlement of the child is: _____, and the _____ Office of Family and Children services is directed to provide notice as required by law.

[ ] The removal of the child was authorized and necessary under IC 31-34-2-3 to protect the child; continuation of residence in the home of the parents/guardians would be contrary to the welfare of the child because: _____
_____

[ ] reasonable efforts to reunify or prevent the removal of the child from the home were:
_____
_____

The statements of reasonable efforts as set forth in the pleadings and papers of the County Office of Family and Children filed herein are incorporated by reference.

So ordered this ____ day of _____, _____.

_____
Judge

DISTRIBUTION:

STATE OF INDIANA
_____ COURT

In The Matter Of : _____ CASE NO. _____

_____
A Child Alleged to be a Child in Need of Services

ORDER ON FACT-FINDING HEARING ON CHINS PETITION
Order Finding Child is Not a Child in Need of Services

The State of Indiana appears by _____, (attorney for County Office of Family and Children) (Deputy/Prosecuting Attorney). The child, _____ , appears in person (is excluded for good cause shown upon the record). The parent(s) (guardian) (custodian) , _____, appears in person and by counsel, _____. The GAL/CASA, _____ appears.

The CHINS petition comes on for Fact-finding Hearing.

The Court now finds that it has not been proven by a preponderance of the evidence that the child is a Child in Need of Services. The Court now discharges the child and all parties from the jurisdiction of this Court.

So ordered this ____ day of _____, _____.

_____
Judge

DISTRIBUTION:

SCOPE NOTE
Predispositional Report

If a child is found to be a child in need of services, the Court **shall** order a written dispositional report to be filed by a probation officer or caseworker. The predispositional report must include a statement of and recommendation for care, treatment, rehabilitation or placement of the child. Alternative reports **may** be prepared by the child, or the child's parent, guardian, guardian ad litem, court appointed special advocate, or custodian for consideration by the Court. **IC 31-34-18-1.**

> **Note:** A predispositional report is not required at any phase if the Court enters a finding that reasonable efforts to unify or preserve a child's family are not required under IC 31-34-21-5.6. **I.C. 31-34-21-5.7.**

The person preparing the predispositional report **may** (or if directed by the court, *shall*) confer with individuals who have expertise in professional areas related to the child's needs in the areas of appropriate care, treatment, rehabilitation or placement. **IC 31-34-18-1.1.**

The probation officer or case manager preparing the report must consider the necessity, nature and extent of participation by a parent, guardian or custodian in a program of care, treatment or rehabilitation for the child. **IC 31-34-18-2; IC 31-10-2-1**.

The predispositional report **shall** include the following information: (1) a description of all dispositional options considered in the report; (2) an evaluation of each of the options considered in relation to the plan of care, treatment, rehabilitation or placement recommended under the guidelines described in IC 31-34-18-4; (3) the name, occupation and position and any relationship to the child of each person with whom the preparer of the report conferred as provided in IC 31-34-18-1.1. **IC 31-34-18-6.1**

> **NOTE:** IC 31-34-18-4 states that the person preparing the report shall recommend care, treatment, rehabilitation or placement that is ***in the least restrictive*** *(most family like) and most appropriate setting available* **and** *close to the parents' home.*

If the probation officer or case manager believes that an out-of-home placement would be appropriate for the child, the probation officer or case manager preparing the report **shall** consider whether the child should be placed with a *suitable* and *willing* blood or adoptive relative, including a grandparent, aunt, uncle or an adult sibling, ***before*** considering other out-of-home placements for the child. **IC 31-34-18-2.**

The probation officer or case manager **shall** prepare a *financial report* on the parent or the estate of the child to assist the juvenile court in determining that person's financial responsibility for any services provided for the child and/or parent(s). **IC 31-34-18-3.**

IC 31-34-18-4: The person preparing the report shall, *when consistent with the safety and welfare of the child and the community*, recommend a program of care, treatment or rehabilitation that:

(1) is in the **least restrictive (most family like) and most appropriate setting available and close to the parents' home, consistent with the best interest and special needs of the child [Note: this is an exact quote from the revised statute]**;
(2) least interferes with family autonomy;
(3) is least disruptive of family life;

(4) imposes the least restraint on the freedom of the child, his parents, guardian or custodian; and

(5) provides a reasonable opportunity for participation by the child's parents, guardian or custodian.

Predispositional reports are to be made available *within a reasonable time* ***before*** the dispositional hearing, unless the juvenile court determines, *on the record*, that they contain information which should not be released to the child or the child's parent, guardian, or custodian. A predispositional report shall be provided to any attorney, guardian ad litem, or court appointed special advocate representing the child, or to any attorney representing the parent, guardian or custodian. The court may provide a factual summary of the predispositional report to the child or the child's parent, guardian, or custodian. **IC 31-34-18-6.**

The person who prepared the predispositional report must be present at the dispositional hearing, if possible, and shall provide testimony when requested to explain how the individuals participating in the 'conference' [*described in IC 31-34-18*] examined the available options and recommended the options that most closely coincide with the guidelines provided in IC 31-34-18-4. **IC 31-34-19-1.1.**

STANDARD PREDISPOSITIONAL REPORT - CHILD IN NEED OF SERVICES

INTRODUCTION

The following is a Standard Predispositional Report. It was developed by the Juvenile Benchbook Committee of the Indiana Judicial Conference in response to the ongoing state-wide need for standardization. Its design provides a format for collecting and reporting information useful to the juvenile court judge in considering the disposition of a CHINS juvenile.

Important Note

The Roman numeral numbered categories in the body of the predispositional report must be answered. It should be answered at the appropriate length to be determined by the case manager (or probation officer) and judge. The members of the Juvenile Benchbook Committee of the Judicial Conference of Indiana believe it is important to address each category of the report in the length necessary for each juvenile.

STANDARD P.D.R. REPORT FEATURES

Predispositional Report

The body of the Predispositional Report is a **format**, not a form. Each Roman numeral category must be answered in the order indicated in this manual with no exception. The category title must still be answered at the appropriate length determined by the case manager (or probation officer) and judge.

The Predispositional Report was developed to aid case managers (or probation officers) in three ways: to outline what types of information can be included in each category, to assist the officer in developing that information, and to provide a comprehensive tool for the training of new case managers.

Narrative

The writing of a predispositional report is a person to person task. The case manager (or probation officer) must interview the juvenile and parent(s) and gather pertinent information to the particular case, as well as discern (if possible) the attitudes, personality, home situation, etc. of the juvenile. After gathering information, the officer, through his/her expertise as a professional, transforms this information into logical and concise narratives under each PDR category. The case manager (or probation officer) should then analyze this information to develop a recommendation to the court for disposition of the individual. This Standard Predispositional Report format is an attempt to help the case manager (or probation officer) in this overall task.

Summary

The format of the predispositional report, consisting of Roman numeral categories, must be answered. Each numbered category within the standard predispositional report is addressed in narrative form at the length determined by the informational needs and requirements of the individual case. The display of the information in the body of the report is up to the discretion of the judge and/or case manager (or probation officer). This Report, as developed, should be a helpful guide to understanding what types of information should be addressed under each numbered category.

PREDISPOSITIONAL REPORT - CHILD IN NEED OF SERVICES

Warning: This report is confidential and may only be released with specific authorization.

Indiana Code § 31-34-18
STATE OF INDIANA
(*INSERT COURT NAME)*

In the Matter of: _____
A Child Alleged to be a Child in Need of Services

Date Completed: _____
Assigned Case Manager:_____ Report Prepared By:_____

JUVENILE INFORMATION

Case No.(s):_____
Legal Name:_____
Alias(es)/Nickname(s):_____
Custodial Person(s) or Agency:_____
Street Address:_____
City:_____ State:_____ Zip:_____
Telephone:_____ Social Security No.:_____
DOB:_____ POB:_____Age:___
Race:_____ Gender:_____ Ht.:_____ Wt.:_____ Eyes:_____ Hair:_____
ID Marks:_____
Driver's Lic. No.:_____ State of Issue:_____ Status:_____

FAMILY INFORMATION

Father's Name:_____
DOB: _____ SSN (if available):_____
Address:_____
Employment:_____ Hours:_____
Home Telephone:_____ Work Telephone:_____

Mother's Name:_____
DOB: _____ SSN (if available):_____
Address:_____
Employment:_____ Hours:_____
Home Telephone:_____ Work Telephone:_____

Guardian:_____
Address:_____
Employment:_____ Hours:_____
Home Telephone:_____ Work Telephone:_____

Other(s):_____ Relationship:_____
Address:_____
Employment:_____ Hours:_____
Home Telephone:_____ Work Telephone:_____

I. COURT INFORMATION

Court:
Presiding Judge/Magistrate:

Case Manager:
Address:
Telephone:

Attorney for O.F.C.:

C.A.S.A./G.A.L.:
Address:
Telephone:

Other *(specify)*:

II. SOURCES OF INFORMATION *[enter all sources of information for this Report]*

[here list the sources of all information used to gather data included in this Report]

III. ALLEGATIONS OF THE CASE

A. Allegations of Petition

[here insert short narrative summary of the circumstances and allegations of the case]

B. Parent's Version

[here insert narrative of the parents' response to circumstances and allegations of the case, if applicable]

C. Court's Findings and Adjudication

[here insert statement of the Court's findings, adjudication and the date entered, if available]

IV. PRIOR COURT INVOLVEMENT

A. Child's Involvement:

[here insert a narrative prior CHINS adjudications, if any, involving the child and the child's parent(s), and a narrative of any prior juvenile delinquency proceedings involving the child, including: prior formal and informal supervisions, placements, wardships, in chronological order, to include the dates, places and ultimate dispositions of such supervisions/placements/wardships]

B. Parental Participation/Involvement

[here insert a narrative the parent(s) prior participation in any formal and informal supervisions, placements, wardships, to include the ultimate dispositions of such parental participation programs]

V. FAMILY BACKGROUND

A. Maternal History: *[Mother's Name]*
Source of Information:

[here insert a narrative background material concerning the child's mother, to include such facts as: education, employment history, economic status, prior and present marriages]

B. Paternal History: *[Father's Name]*
Source of Information:

[here insert a narrative background material concerning the child's father, to include such facts as: education, employment history, economic status, prior and present marriages]

C. Step-Parent(s)/Significant Other(s) History: *[Name]*
Source of Information:

[here insert a narrative background material concerning the child's step-parent(s)/significant other ***{if applicable}****, to include such facts as: education, employment history, economic status, prior and present marriages]*

D. Parental Finances ***[*Mandatory information; IC 31-34-18-3; Child Support Guideline Worksheet*** *must* ***be attached]***

[here insert narrative information concerning the personal income and financial assets of the parent(s) or legal guardian(s) of the child, {including any money received on behalf of the child(ren), wages, aid to dependent children, V.A. benefits, Social Security benefits, alimony or child support} and debts and monthly expenses]

E. Siblings

[here insert narrative information concerning the names, ages, location, education and prior legal involvements of any siblings of the child]

F. Family Relationships

[here insert narrative information to illustrate to the Court the extended family dynamics, including parental relationships, interaction with the child and siblings, substance abuse, physical or emotional handicaps, and other factors. Do not merely label extended family members, but describe what the extended family members actually do as it relates to the child's environment.]

G. Home and Neighborhood

[here insert narrative information to describe the child's living environment, neighborhood and community as they affect the child]

H. Other Agency Involvement

[here insert narrative information, in chronological order, of any other agency involvement with the child and/or parents, to include the name, location and point of contact for such agency]

VI. CHILD'S BACKGROUND

A. Child's School History and Legal Settlement

[here insert narrative information concerning the child's current school of legal settlement, current grade, educational performance, significant educational history and disciplinary problems, and special educational services provided to the child]

B. Child's Employment History

[narrative of any jobs or activities of the child for which he/she received money, to include dates of employment, child's vocational training, child's attitude toward work, vocational ambition and goals]

C. Child's Financial Information ***[*Mandatory information; IC 31-34-18-3]***

[list any financial income of the child other than through employment such as: A.D.C. benefits, Social Security benefits, V.A. benefits, child support orders, savings, debts]

D. Child's Social Orientation

[Describe child's extra-curricular activities, hobbies, interests, membership in any organized activity groups, indication of gang activity, religious orientation and participation, attitude toward other family members and other persons, attitude toward members of opposite sex, interpersonal relationships]

E. Child's Physical Health

[Describe physical appearance and health of child, as known, to include any noticeable marks or scars, any noticeable neurotic traits, compulsive mannerisms, etc. Note any current medical conditions, treatments and medications.]

F. Child's Mental Health

[Describe child's general mental health, as known. Note psychiatric and psychological treatments and evaluations, if any, and current medications, if any.]

G. Substance Use/Abuse

[Describe child's use of alcohol or drugs and the degree of use, if known. Note any substance abuse intervention treatment and/or counseling provided to the child, including dates and treatment providers information.]

VII. EVALUATION/SUMMARY

A. Evaluation: *[Here insert: (1) a statement of the needs of the child for care, treatment, rehabilitation or placement; (2) your overall evaluation of the child's situation based upon the information presented in this Report. You should indicate that you have considered the necessity, nature, and extent of the participation by a parent, guardian, or custodian in a program of care, treatment or rehabilitation for the child, and how these considerations affect your evaluation. IC 31-34-18-1; IC 31-34-18-2]*

B. Case Conference: *[If a case conference was held under IC 31-34-18-1.1, state the name, occupation and position, and any relationship to the child of each person with whom you conferred. IC 31-34-18-6.1(1)]*

C. Dispositional Options: *[Describe all dispositional options considered in preparing the report, and your*

evaluation of each of the options. IC 31-34-18-6.1]

[If you believe that an out-of-home placement of the child would be appropriate, you must state whether the child should or should not be placed with a suitable and willing blood or adoptive relative caretaker, and the reasons for such action, before you can consider other out-of-home placements for the child. IC 31-34-18-2]

VIII. REASONABLE EFFORTS

Describe the reasonable efforts made to reunify the family and to finalize permanency.

IX. RECOMMENDATION AND TREATMENT PLAN

[List the recommended plan of care, treatment, rehabilitation or placement of the child, stating how this recommendation and plan: (1) is in the least restrictive and most appropriate setting available and close to the parents' home, consistent with the best interest and special needs of the child; (2) causes the least interference with family autonomy; (3) causes the least disruption of family life; (4) causes the least restraint on the freedom of the child and parent/guardian/custodian; and (5) provides a reasonable opportunity for participation by the child's parent/guardian/custodian.]

Respectfully submitted,

_____

Typed Name:
Case Manager, _____ County Office of Family and Children Services

SCOPE NOTE
Disposition

I. GENERAL PROVISIONS

A. **Nature of hearing**

The juvenile court shall hold a dispositional hearing to consider:

1. alternatives for the care, treatment or rehabilitation for the child;
2. the necessity, nature and extent of the participation by a parent, guardian or custodian in a program of care, treatment or rehabilitation for the child; and
3. the financial responsibility of the parent or guardian of the estate for any services provided for the parent or the child.

IC 31-34-19-1

The person who prepared the predispositional report must be present, if possible, and shall provide testimony when requested to explain how the individuals participating in the conference (IC 31-34-18-1.1) examined the available options and recommended the options that most closely coincide with the guidelines of IC 31-34-18-4.
IC 31-34-19-1.1

B. **Admission of predispositional report into evidence**

Any predispositional report may be admitted into evidence to the extent that it contains evidence of probative value even if it would otherwise be excluded. If a report contains information that should not be released to the child or the child's parent, guardian, or custodian, a factual summary of the report may be admitted. The child, the child's parent, guardian, or custodian, and the person representing the interests of the state shall be given a fair opportunity to controvert any parts of the report admitted into evidence.
IC 31-34-19-2

Hearsay evidence is admissible in a dispositional hearing.
Matter of L.J.M., 473 N.E. 2d 637 at 643 (Ind. Ct. App. 1985).

A CHINS petition puts into issue the character of a parent such that prior evidence of a parent’s acts or omissions are relevant evidence.
Matter of J.L.V., Jr., 667 N.E. 2d 186 (Ind. Ct. App. 1996)

C. **Mentally ill child**

The Juvenile Court may order temporary confinement for mental or physical examination which is limited to fourteen (14) working days (excluding Saturdays, Sundays, and legal holidays):

IC 31-32-12-1 & 2

The juvenile court has no authority to commit a child to a state mental institution as a dispositional alternative. If it appears to the juvenile court that a child is mentally ill, it may refer the matter to the court having probate jurisdiction for civil commitment proceedings under **IC 12-26,** or initiate a proceeding under **IC 12-26.** Thereafter, the court shall either discharge the child or continue its proceedings pending the outcome of the proceedings under **IC 12-26**. **IC 31-34-19-3 & 4.**

> ***NOTE***: The Juvenile Benchbook Committee recommends because of the complexity of law in this area, the juvenile case should remain open until the mental health commitment proceeding is concluded. The juvenile court should also consult the court with mental health jurisdiction about procedures generally in this area and another juvenile court that has heard this type of case.

The juvenile court may order outpatient treatment for a mentally ill child.

D. **Statutory dispositional guidelines: IC 31-34-19-6**

If consistent with the safety of the community and the best interest of the child, the juvenile court shall enter a dispositional decree that:

1. Is the least restrictive (most family like) and most appropriate setting available, and close to the parents' home, consistent with the best interest and special needs of the child;
2. Least interferes with family autonomy;
3. Is least disruptive of family life;
4. Imposes the least restraint on the freedom of the child and the child's parent, guardian or custodian; and
5. Provides a reasonable opportunity for participation by the child's parent, guardian or custodian.

NOTE: The "Policy and Purpose" Chapter of IC 31-10 was amended in 1998 to *add* the following stated policy of the state: "Provide for adoption as a viable permanency plan for children who are adjudicated children in need of services." *IC 31-10-2-1(7)*

If convened, the recommendation of the local coordinating committee shall be considered.
IC 31-38-2-8

In an out of home placement, the court shall consider placement with a suitable and willing relative.
IC 31-34-19-7

E. **Court Finding of "Reasonable Efforts not required"** ***[****IC 31-34-21-5.6****]*****:** At *any* phase of the CHINS proceeding, the Court may make a finding that *reasonable efforts* to reunify a child with the child's parent, guardian or custodian - or preserve a child's family - *are not required* if the Court finds *any of the following conditions exist:*

(1) The parent, guardian or custodian has been convicted of (or a comparable offense in any other state, territory or country): Causing Suicide; Involuntary Manslaughter; Rape; Criminal Deviate Conduct; Child Molesting; Child Exploitation; Sexual Misconduct with a Minor; Incest
--- *against a victim who is:* the Child; a Parent of the Child. *IC 31-34-21-5.6(b)(1)*

(2) The parent, guardian or custodian has been convicted of (or a comparable offense in any other state, territory or country): Murder; Voluntary Manslaughter
--- *against a victim who is:* a Child under the age of sixteen at the time of the offense; or, the biological or adoptive child of the perpetrator; or, the child of a spouse of the perpetrator. *IC 31-34-21-5.6(b)(2)*

(3) The parent, guardian or custodian has been convicted of (or a comparable offense in any other state, territory or country): Battery as a Class B or C Felony; Aggravated Battery; Criminal Recklessness as a C Felony
--- *against a victim who is:* a Child under the age of sixteen at the time of the offense; or, the biological or adoptive child of the perpetrator; or, the child of a spouse of the perpetrator. *IC 31-34-21-5.6(b)(3).*

(4) The parental rights of a parent -- with regard to a biological or adoptive sibling of the Child who is a CHINS -- have been involuntarily terminated under: IC 31-35-2 (involuntary termination involving a delinquent child or a CHINS); IC 31-35-3 (involuntary termination involving a person convicted of a criminal offense); any comparable law in any other state, territory or country. *IC 31-34-21-5.6(b)(4).*

(5) The child is an abandoned infant [I.C. 31-9-2-0.5] -- *provided* that the Court has appointed a GAL or CASA for the child -- and after receiving a written report and recommendation from the GAL/CASA and after a hearing -- the Court finds that reasonable efforts to locate the child's parents or reunify the child's family would not be in the best interests of the child. *IC 31-34-21-5.6(b)(5).*

Action when finding "Reasonable Efforts not required" [IC 31-34-21-5.7**]:** Whenever the Court enters a finding that reasonable efforts to reunify or preserve a child's family are not required (IC 31-34-21-5.6), the ***County Office of Family and Children*** **shall**: (1) Complete a **permanency plan** for the child that complies with the requirements of IC 31-34-21-7.5; and (2) seek Court **approval of the permanency plan** (hearing required) under IC 31-34-21-7.

The Court **shall hold a permanency hearing** *not more than* ***thirty (30) days*** *after a finding that reasonable efforts to reunify or preserve a child's family are not required. IC 31-34-21-7.*

A **permanency plan** *must include* the following information *[IC 31-34-21-7.5]*:

(1) The intended permanent or long term arrangements for care and custody of the child -- that may include *any* of the following arrangements that the **Court** considers most appropriate and consistent with the best interests of the child:

(A) **Return to** or continuation of existing **custodial care** within the home of the child's parent, guardian or custodian, or placement of the child with the child's noncustodial parent;
(B) Initiation of proceedings for **Termination** of the Parent-Child Relationship under IC 31-35;
(C) Placement of the child for **adoption;**
(D) **Placement** of the child **with a responsible person,** including: an adult sibling; a grandparent; an aunt or uncle; or other relative -- who is **able and willing** to act as the child's permanent custodian and carry out the responsibilities of the plan;
(E) **Appointment of a legal guardian** in a judicially created relationship that is intended to be permanent and self-sustaining; or
(F) **Placement** of the child **in another planned, permanent living arrangement**.

(2) A **time schedule** for implementing the permanency plan.

(3) Provisions for the temporary or interim care and custody of the child pending completion of the implementation of the permanency plan.

(4) Other items required to be included in a Case Plan under IC 31-34-15 (or federal law) consistent with the permanent arrangements described by the permanency plan.

Permanency Plan Hearing *[IC 31-34-21-7]*:

IC 31-34-21-7(a): The Court shall hold a **permanency hearing:**

(1) **not more than thirty (30) days** *after* a court finds that reasonable efforts to reunify or preserve a child's family are not required; or
(2) every twelve (12) months after the date of original dispositional decree or the child was removed from the child's parent, guardian or custodian -- whichever occurred first; or
(3) more often if ordered by the court.

IC 31-34-21-7(b). At the permanency hearing, the Court shall:

(1) make determinations and findings required by IC 31-34-21-5 [Review of Dispositional Decrees];
(2) consider whether jurisdiction should be continued and whether the dispositional decree should be modified;
(3) consider recommendations of persons listed under section 11 of this chapter *[IC 31-34-21-11]*;

(4) consider and approve a permanency plan for the child that complies with IC 31-34-21-7.5;
(5) determine whether an existing permanency plan must be modified; and
(6) examine the procedural safeguards used by the County OFC to protect parental rights.

COMMITTEE NOTE:
The law relating to "no reasonable efforts" finding by the Court, and the law relating to permanency plans and hearings, seem to be in conflict with *IC 31-35-2-4.5* [Filing of Petition for Termination of Parent-Child Relationship; Motion to Dismiss]. *IC 31-35-2-4.5 states: If a court has made a finding* under *IC 31-34-21-5.6* that reasonable efforts for family preservation or reunification *are not required*, a petition to terminate the parent-child relationship *shall* be filed (by OFC, Prosecutor, CASA or GAL) and a hearing shall be set upon the petition. *A* party shall file a motion to dismiss the petition to terminate *if any of the following circumstances apply:*

(1) the Case Plan has documented a compelling reason for concluding that the proceeding to terminate the parent-child relationship is not in the best interests of the child. A compelling reason is that the child is being cared for by a custodian who is a parent, stepparent, grandparent, sibling, aunt, uncle or relative who is caring for the child as a guardian;

(2) that IC 31-34-21-5.6 is not applicable to the child and the county OFC has not provided family services to the child in accordance with the case plan or permanency plan and the period for completion of the program described in the plan has not expired; or

(3) that IC 31-34-21-5.6 is not applicable to the child and the county OFC has not provided family services in accordance with the case plan or permanency plan and the services that weren't provided are substantial and material to implementation of the plan.

As we have described, IC 31-34-21-5.7 and IC 31-34-21-7 state that a "no reasonable efforts" finding by the Court immediately triggers the requirement that OFC prepare a permanency plan (that *may* include a plan to initiate termination of parental rights) and that the Court conduct the permanency plan hearing within thirty (30) days of such finding. Curiously, this "no reasonable efforts" finding *also* triggers the requirement of a *filing* of a petition for termination of parent-child relationship -- *and* -- the *filing* of a motion to dismiss the petition for termination.

As a practical matter, if the Court makes a finding (as a part of the Dispositional Decree) that "no reasonable efforts" for family preservation or reunification are required, then a reasonable procedure might be:
-- the permanency hearing *MUST* be held within thirty (30) days of that finding;
-- the permanency plan prepared by the county OFC *MUST* include a plan to initiate termination of parent-child relationship;
-- if the Court approves the permanency plan, a petition for termination of parent-child relationship is filed under a separate case number and proceedings to terminate are conducted as provided by IC 31-35-2;
-- if the Court does not approve that portion of the plan pertaining to termination of parent-child relationship, the Court should **rescind** its finding of "no reasonable efforts."

F. Advisement of procedures

The juvenile court shall advise the child and the child's parent, guardian, or custodian of procedures for modification pursuant to **IC 31-34-23** and **IC 31-34-19-9.**

G. Procedures after making dispositional decree

The court must send a copy of the dispositional report to any person who receives placement or wardship of the child. **IC 31-34-19-8**

H. A dispositional order is a final and appealable judgment. An order determining CHINS may be a final appealable judgment where no dispositional hearing is held and no dispositional order is entered. **Hallberg v. Hendricks County OFC** 662 N.E. 2d 639 (Ind. Ct. App.1996)

I. **Legal Settlement For School Purposes**

The juvenile court shall make a finding of legal settlement of the child in any decree when the court places a child or changes the placement of a child. This affects transfer tuition fees. **IC 31-9-2-75; IC 31-34-20-5(b); IC 20-8.1-6.1-1**

The juvenile court shall, within ten days of placement comply with the reporting requirement concerning the legal settlement of the child. **IC 20-8.1-6.1-5.5**; **IC 31-34-20-5(c).**

J. Right to Counsel.

IC 31-34-4-6. The parent, guardian or custodian has the right to be represented by a court appointed attorney under IC 31-34-4-6(a)(1)(A) upon the request of the parent, guardian or custodian, if the court finds that the parent, guardian or custodian does not have sufficient financial means for obtaining representation as described in IC 34-1-1-3.

The court has discretion to appoint counsel if a parent is not indigent and requests counsel. **Matter of E.P.,** 653 N.E. 2d 1026 (Ind. Ct. App. 1995)

A parent may waive counsel if done so knowingly and voluntarily. **IC 31-32-5-5**

NOTE: **The Committee recommends that a parent be represented by counsel if the CHINS petition is contested.**

K. Appointment of Guardian ad Litem or Court Appointed Special Advocate.

IC 31-34-10-3 establishes under what conditions a GAL or CASA must be appointed and what conditions make the appointment discretionary with the court.

NOTE: **The Committee recommends that a GAL or CASA be appointed in every CHINS case.**

L. Federal requirements: *"The State must make reasonable efforts to maintain the family unit and prevent the unnecessary removal of a child from his/her home, as long as the child's safety is assured; to effect the safe reunification of the child and family (if temporary out-of-home placement is necessary to ensure the immediate safety of the child); and to make and finalize alternate permanency plans in a timely manner when reunification is not appropriate or possible." 45 C.F.R. 1256.21(b)*

Chapter 10: Disposition

NOTE: **The following procedures are necessary in order to obtain reimbursement to a county for Title IV-E and/or IV-EA out of home placements. A court may wish to determine how these funds are being disbursed. These requirements also apply to delinquents and status offenders placed outside the home.**

Under Title IV-E, § 471 and § 472, governing eligibility of states for Title IV-E foster care maintenance payments, when a child is removed from the child's home and placed in foster care or a child-care institution, there must be a judicial determination that continuation in the home would be contrary to the welfare of the child. *This finding must be made within 60 days of removal; can be made earlier. Reasonable efforts findings must be specific and may incorporate reports and documents filed by the OFC.* Additionally, it must be shown that reasonable efforts have been made prior to the placement of a child in foster care to prevent or eliminate the need for removal of the child from the child's home, and to make it possible for the child to return to the child's home. 42 U.S.C. § 671 (a)(15) and 42 U.S.C. § 672; 45 CFR § 1356.21.

Title IV-E § 475 requires a written "case plan" and mandates a "case review system". This requires the status of each child be reviewed periodically but not less frequently than once every six months. This review is to determine the continuing necessity for and appropriateness of the placement, the extent of compliance with the case plan, and the extent of progress which has been made toward alleviating or mitigating the causes necessitating placement in foster care, and to project a likely date by which the child may be returned to the home or placed for adoption or legal guardianship. Section 475 requires a court hearing at least every twelve months to determine the future status of the child including, but not limited to, whether the child should be returned to the parent, or should be continued in foster care on a permanent or long-term basis. Procedural safeguards must be applied with respect to parental rights pertaining to removal of the child from the home, change in child's placement, and to determinations affecting visitation privileges of parents. 42 U.S.C. § 675; 45 CFR § 1356.21. *If reunification is no longer the goal, the court must have a permanency hearing within 12 months of the date the child is considered to have entered foster care and at least once every 12 months thereafter while the child is in foster care.*

Federal regulations require the written case plan to be completed within a reasonable time, in no event later than sixty days from the time the State assumes responsibility for providing services including placement of a child. 45 CFR §1356.21.

NOTE: The Juvenile Benchbook Committee recommends that the court require the case plan to be completed and filed with the court *before* dispositional hearing. It is recommended the court consider and fix a time for mandatory review at the time of the dispositional hearing, if not previously set. Otherwise, the county office of family and children or probation officer will have to request a formal court hearing whenever such is thereafter required under IC 31-34-21.

NOTE: The case of each CHINS under the supervision of the county Office of Family and Children must be reviewed **at least once every six (6) months, *or more often*** if

ordered by the court. The **first** of these case reviews must occur **at least six months** after the date of the child's removal from the child's parent, guardian or custodian, or **at least six months** after the date of the dispositional decree -- whichever occurs first. *IC 31-34-21-2*.

NOTE: Each periodic case review must be conducted by the juvenile court in a *formal court hearing. IC 31-34-21-2(c).*

NOTE: A permanency hearing is required to be held by the court every 12 months after the date of the original dispositional decree or removal from the child's parent, guardian, or custodian, whichever comes first. IC 31-34-21-7.

The next hearing should be set in open court with all parties present.

II. DISPOSITIONAL ALTERNATIVES

The court may do the following as a part of a dispositional decree [**IC 31-34-20-1**]:

(1) Order supervision of the child by the probation department or the county office of family and children.
(2) Order the child to receive outpatient treatment at a social service agency, or a psychological, psychiatric, medical, or educational facility, or from an individual practitioner.
(3) Remove the child from the child's home and place the child in another home or shelter care facility (placement under this subdivision includes authorization to control and discipline the child.)
(4) Award wardship to any person or shelter care facility (wardship under this subdivision does not include the right to consent to the child's adoption).
(5) Partially or completely emancipate the child under **IC 31-34-20-6**
(6) Order the child or the child's parent, guardian, or custodian to receive family services.
(7) Order a person who is a party to refrain from direct or indirect contact with the child. Such an order entered hereunder shall comply with IC 5-2-9 regarding protective orders.

IC 31-32-13-1 allows a protective order to be entered to control the conduct of any person in relation to the child upon notice and hearing. Such a decree is distributed like a protective order pursuant to **IC 31-34-20-4.**

Juvenile Court having jurisdiction of a child adjudicated a CHINS, under appropriate circumstances, may issue a protective order to control the conduct of any person, including overriding or modifying a school's disciplinary decision to suspend the child.

In Re P.J., 575 N.E.2d 22, (Ind. Ct. App. 1991)
Matter of H.L.K. 666 N.E. 2d 80, (Ind. Ct. App. 1996), *transfer granted*
Board of School Trustees v. Barnell, 678 N.E. 2d 799, (Ind. Ct. App.1997)

Chapter 10: Disposition

A. **Supervision**

(1) The juvenile code has deleted the word "probation" and uses the word "supervision" which is applicable to concept of providing supervision for children in need of services. The power to impose terms and conditions of supervision is implicit in the authority to supervise.

(2) If the court places a juvenile under supervision, it is recommended that the court either instruct the child and parents on the record as to conditions of supervision and consequences for failure to follow them, or else require the intake officer to prepare a written agreement or statement of the conditions, to be signed by the child and parent or guardian, approved by the court, and filed and made a part of the record of dispositional decree.

B. **Outpatient treatment**

The juvenile court may order treatment on an outpatient basis. Outpatient treatment is not limited to treatment for mental illness as the statute is very broad and embraces many disciplines and several agency services.

C. **Removal of child from the child's home and placement in another home or shelter care facility**

(1) This dispositional alternative includes authorization to control and discipline the child.
(2) A "shelter care" facility is a non-secure facility. **IC 31-9-2-117**

D. **Award wardship to any person or shelter care facility**.

(1) This does not include the authority to consent to adoption.
(2) At the dispositional hearing, the court may place a child in custody of a person other than the child's parent or legal guardian. Although the court may place the child with a relative or other suitable person, it may be necessary to order the county office of family and children to expend funds needed for support and maintenance of juvenile or authorize the county office of family and children or another agency to make the placement, or supervise behavior and see that medical or other maintenance needs are met. The court may order the child to be made a ward of the court, county office of family and children, or any licensed child-placing agency willing to assume wardship. **IC 31-34-20-1**

NOTE: There is no definition of wardship under the Indiana Juvenile Code, however, see **Matter of S.T.**, 621 N.E. 2d 371 (Ind. Ct. App. 1993) for a reference to wardship.

E. **Emancipation**

In order to grant emancipation, the court must make the findings required by **IC 31-34-20-6.** If emancipation is granted, the court shall specify terms of emancipation in accordance with **IC 31-34-**

20-6(b). An emancipated child remains subject to the compulsory school attendance law **IC 20-8.1-3** and to the continuing jurisdiction of the juvenile court. **IC 31-34-20-6(c).**

F. **Refrain from direct or indirect contact with the child**

A petition may be filed according to **IC 31-34-17-3** seeking a Protective Order to prevent direct or indirect contact with the child.

III. PARTICIPATION OF PARENT, GUARDIAN OR CUSTODIAN IN PROGRAM OF CARE, TREATMENT OR REHABILITATION AND FINANCIAL RESPONSIBILITY FOR SERVICES.

A. Participation of parent, guardian or custodian in program of care treatment or rehabilitation pursuant to **IC 31-34-20-3**.

If the juvenile court determines a parent, guardian, or custodian should participate in a program of care treatment or rehabilitation for the child, it may order the parent, guardian or custodian to:

(1) Obtain assistance in fulfilling obligations as a parent, guardian, or custodian;
(2) Provide specified care, treatment or supervision for the child;
(3) Work with any person providing care, treatment or rehabilitation for the child.
(4) Participate in a program operated by or through the Department of Correction.

B. Parental participation petition.

(1) The Prosecutor, Office of Family And Children Attorney, Probation Officer, Caseworker, GAL, or CASA, may file a verified parental participation petition, and the Court may hold a hearing concurrent with a dispositional or modification hearing. **IC 31-34-16**

Compliance with statute on parental participation is a prerequisite for parental participation order subject to contempt. **Mikel v. Elkhart Co. DPW,** 622 N.E.2d 225, (Ind. Ct. App. 1993)

C. Financial responsibility of county and parent or guardian for services (**IC 31-40)**:

(1) The cost of any services ordered by the juvenile court for any child or the child's parent, guardian, or custodian and the cost of returning a child under **IC 31-37-23** shall be paid by the county, and the county council shall provide sufficient funds to meet the court's requirements.

(2) **IC 31-40-1-3**: The parent or guardian of the estate of a child adjudicated a delinquent child or a child in need of services is financially responsible for any services ordered by the court unless:
   (a) The person is unable to pay for them;
   (b) Payment would force an unreasonable hardship on the family; or
   (c) Justice would not be served by ordering payment.

(3) Prior to the dispositional hearing, each parent shall furnish to the Court a current and complete child support worksheet. Each parent of a child shall be ordered to pay for the services provided to the child. **IC 31-40-1-3** If institutional placement is ordered, the Court shall refer to the child support guidelines adopted by the Indiana Supreme Court. **IC 31-40-1-5**

   Exception: If the Court finds that the parents/guardians are unable to pay, or justice would not be served by ordering payment, the order of reimbursement need not be issued. **IC 31-40-1-3**

(4) The parent or guardian of the estate of any child returned to Indiana under the interstate compact on juveniles **(IC 31-37-23)** shall reimburse the county for all costs involved in returning the child, whether or not the child has been adjudicated a child in need of services.

(5) At the dispositional hearing or any other hearing to consider modification of a dispositional decree, the juvenile court may determine the ability of a parent or guardian of the estate to pay for services provided to the parent or the child.

(6) The juvenile court shall require the parent or guardian of the estate to reimburse the county in a manner that will cause the least hardship.

(7) If the parent or guardian of the estate defaults in reimbursing the county, or fails to pay any fee authorized by this article, the juvenile court may find that person in contempt and/or enter judgment for the amount due.

(8) On institutional placements, it is the obligation of the Office of Family and Children to monitor and seek enforcement of reimbursement orders. **IC 31-40-1-5(d), (e)**

(9) The juvenile court may order the parent or guardian of the estate of any child for whom a guardian ad litem or court appointed special advocate is appointed to pay a user fee of up to one hundred dollars ($100.00) for the services of a guardian ad litem or court appointed special advocate. Juvenile courts in adjacent counties may establish multiple county guardian ad litem or court appointed special advocate services.

The statute contemplates a hearing to determine financial responsibility of parents, and the state has

the burden of proof by a preponderance of the evidence. **L.J.F. v. Lake County Department of Public Welfare,** 484 N.E.2d 40 (Ind. App. Ct. 1985).

Parents of a juvenile whose delinquency petition was dismissed are not financially responsible for the attorney fees of a court appointed counsel under **IC 31-40-1-1.** This statute provides the county must pay this fee. **Woolf v. State,** 545 N.E.2d 590 (Ind. Ct. App. 1989)

A trial court may order a parent of a delinquent child who is made a ward of the local welfare department to use a portion of the parent's social security disability benefits for the child's care to be used to support the child in the county's Children's Home. **Ritter v. Bartholomew County DPW**, 564 N.E.2d 329 (Ind. Ct. App. 1990)

IV. FINDINGS OF FACT AND CONCLUSIONS

A. **Dispositional Decree: IC 31-34-19-10**

The juvenile court shall accompany its dispositional decree with written findings and conclusions upon the record concerning:

1. The needs of the child for care, treatment or rehabilitation;
2. The need for participation by the parent, guardian or custodian in the plan of care for the child;
3. The efforts made to prevent the child's removal from or to reunite the child with the child's parent, guardian or custodian in accordance with federal law;
4. The family services that were offered and provided to the child or the child's parent, guardian or custodian in accordance with federal law; and
5. The court's reasons for the disposition.

B. **Judicial Determination of Reasonable Efforts**

See Section I(E) of this Scope Note, supra.

NOTE: In order to satisfy the federal statutes and regulations governing foster care maintenance payments, there must be a judicial determination to the effect that continuation in the parental home would be contrary to the welfare of the child. Also, it must be found that reasonable efforts were made prior to placement in foster care to prevent or eliminate the need for removal and that reasonable efforts have been made to return the child to the child's home.

C. **Title IV-E Foster Care**

The court should be aware that to qualify for Title IV-E monies for reimbursement of certain

costs, specific language and findings are necessary. The Court must find that reasonable efforts have been made to keep the child at home or to reunify the child with the child's family, that it is in the best interests of the child to be removed from the child's home, and that continuation in the home would not be in the child's best interests.

V. CONTEMPT OF COURT

IC 31-32-14-1: The juvenile court may punish a person for contempt of court under IC 34-47:

IC 34-47-1 (Applicability)
IC 34-47-2 (Direct Contempt of Court)
IC 34-47-3 (Indirect Contempt of Court)
IC 34-47-4 (Contempt Citations and Writs of Attachment)

See: the contempt "checklist" in the *Civil Benchbook:* Contempt, 70.00.

C-10.02

PROCEDURE
Dispositional Hearing

Dialogue of dispositional hearing: USE DIALOGUE C-10.03

Dispositional decree for supervision by county office of family and children: USE FORM C-10.04

NOTE: The Committee recommends that the conditions of supervision be reduced to writing and signed and filed with the court and made a part of the record. If conditions of supervision include referral and cooperation with an agency not connected with the court, some record should be made of the referral to the agency, together with the plan the agency is expected to fulfill.

Dispositional decree granting wardship to county office of family and children for purposes of placement: USE FORM C-10.05

Court finding (at the dispositional hearing) that reasonable efforts to reunify the child with the family are not required: USE FORM C-10.06

Provision in dispositional decree for mandatory review: **The Court should** fix the time for the **Six Month Periodic Case Review Hearing** and the **mandatory twelve month Permanency Hearing** as a part of the order on dispositional hearing.

C-10.03

DIALOGUE FOR DISPOSITIONAL HEARING

COURT: Let the record show that Juvenile Case No. _____, entitled "In The Matter of _____, a child alleged to be a child in need of services", is now before the court for dispositional hearing. The purpose of this dispositional hearing is to consider:

1) alternatives for the care, treatment or rehabilitation for the child;
2) the necessity, nature and extent of participation by a parent, guardian or custodian in a program of care, treatment or rehabilitation for the child; and
3) the financial responsibility of the parent(s)(guardian of the estate)for any services provided for the family or the child.

The State of Indiana appears by _____ (Prosecutor or County Office of Family and Children Attorney). Also, _____ (Intake Officer) appears. The child, _____, appears [or does not appear] in person (and by [guardian ad litem] [CASA] [attorney]). Also, respondent (parent[s]) (guardian) appear(s) (in person and by attorney _____).

NOTE: If either the Child or the parents are not present at the dispositional hearing, the Court should make a record as to the reason for their absence.

NOTE: IC 31-34-4-6. The parent, guardian or custodian has the right to be represented by a court appointed attorney under IC 31-34-4-6(a)(1)(A) upon the request of the parent, guardian or custodian if the court finds that the parent, guardian or custodian does not have sufficient financial means for obtaining representation as described in IC 34-1-1-3.

COURT: On _____ (date) a predispositional report was filed with the Court. The Court has read and considered the report. _____ (name), the person who prepared the predispositional report is present in Court.

NOTE: If the person who prepared the report is not present, as required by IC 31-34-19-1.1, explanation should be given to the Court as to the reason(s).

COURT: Have all parties had an opportunity to read and examine the report?
A:

COURT: (Upon own motion or motion of party) The predispositional report is now admitted into evidence in this case.

COURT: Are there any alternative reports regarding the disposition in this case for filing?
A: (If so, admit the alternative reports into evidence.)

Chapter 10: Disposition

COURT: Does any party desire to question or correct any portion of the predispositional report (and alternative reports) admitted into evidence?

A: (If so, afford opportunity for doing so).

COURT: Does any party wish to question the preparer of the predispositional report concerning the procedure and considerations made by the preparer, or the persons conferring with the preparer, in examining the options and making the recommendations presented in the report?

A: (If so, afford opportunity for doing so. If the preparer is not present, the Court may wish to recess the proceeding and summon the preparer to Court. If it is not possible to obtain the presence of the preparer, the reasons for the preparer's absence should be noted upon the record.)

COURT: (If report preparer is present) _____,[report preparer] was a conference under IC 31-34-18-1.1 held?

(If yes) What available options were examined considered? (Preparer explains) Do the options recommended closely coincide with the guidelines provided in IC 31-34-18-4? (Preparer explains)

COURT: The court will now consider any evidence that any party wishes to offer. (Prosecutor/County Office of Family and Children Attorney). (Child), (guardian ad litem, special advocate or attorney). (Parent, guardian, or attorney for parent or guardian).

COURT: _____, what efforts have been made to prevent or eliminate the need for placement or make it possible for the child to return home?

A: (If none, ask for explanation).

COURT: The court will now hear recommendations concerning care, treatment or rehabilitation of the child, parental participation, and financial responsibility of parent or guardian for services. (Prosecutor/County Office of Family and Children Attorney). (Child), (guardian ad litem, special advocate or attorney). (Parent, guardian, or attorney for parent or guardian).

COURT: (If appropriate) The local coordinating committee having filed its recommendation with the court and the court having considered such recommendation, it is now admitted into evidence.

COURT: (If appropriate) The Court finds that the legal settlement for educational purposes of the child is _____.

COURT: Does anyone have anything additional to present to the court before a decision is made?

COURT: [COURT ANNOUNCES DISPOSITIONAL DECREE:]

Dispositional Decree shall include a finding and order on legal settlement,

and a Title IV-E finding and order (reasonable efforts and best interests of the child), on each out-of-home placement. ***See reference to 45 CFR 1356.21 in C-10.01.***

COURT: Now that the court has announced its decision, the court must advise you of the following:

1. The terms of the dispositional decree may be modified on the court's own motion, motion of the prosecuting attorney/attorney for the county office of family and children, probation officer/caseworker, the child, the parent, guardian or custodian, or any person providing services under this decree.

2. The case of each child in need of services under supervision of the County Office of Family and Children must be reviewed at least once every six (6) months, or more often if ordered by the Court. The first of these periodic case reviews must occur at least six (6) months after the date of the child's removal from the parent, guardian or custodian, or at least six (6) months after the date of the dispositional decree -- whichever occurs first.

This case is set for a **Six Month Periodic Case Review Hearing in this Court on the _____ day of _____ at _____ M., and you are ordered to return to court on this date without further notice.**

3. This Court is required to conduct a **Permanency Hearing:**

   -- *not more than* **thirty days** after this Court finds that **reasonable efforts** to reunify or preserve this child's family are **not required** under Indiana Law; or

   -- every twelve months after the date of the original dispositional decree or the date the child was removed from the child's parent, guardian or custodian.

whichever occurs first. At the Permanency Hearing, the Court must consider whether jurisdiction over this child should be continued, and whether this dispositional decree should be modified.

There is a presumption that jurisdiction over a child in need of services continues for not longer than twelve months after the date of the original dispositional decree or twelve months after the child was removed from the child's parent, guardian or custodian, whichever occurs first. The Office of Family and Children (or the State) may rebut this presumption and show that jurisdiction should continue if it proves that the objectives of the decree have not been accomplished, that continuation of the decree is necessary, and that it is in the child's best interest for the Court to maintain its jurisdiction over the child.

If the Office of Family and Children (or the State) does not show the Court good cause for extending jurisdiction, the Court shall either:

-- direct the Office of Family and Children to establish a permanency plan within thirty days; -- or --
-- return the child home and terminate these proceedings.

A permanency plan prepared by the Office of Family and Children must be approved by the Court at the Permanency Hearing. The permanency plan could include a recommendation for: initiation of proceedings to terminate your parental rights; placement of your child for adoption; placement of your child with another parent or responsible relative; permanent placement of your child with a legal guardian; or permanent placement of your child in another planned living arrangement.

This case is set for a **Permanency Hearing in this Court on the _____ day of _____ at _____M., and you are ordered to return to court on this date without further notice.**

NOTE: *It is appropriate to set the twelve month Permanency Hearing at this time and to give notice to all parties in open court. If a Permanency Hearing is required because of a "reasonable efforts not required" finding by the Court -- make sure that the Permanency Hearing is scheduled within thirty (30) days of the finding, direct the OFC to prepare the permanency plan, and notify all parties in open court of the date, time and location of the Permanency hearing.*

4. You have a right to appeal this disposition. The first step in the process of appeal is to file a written Praecipe with this Court within 30 days of this date. The Praecipe must designate, in writing, what pleadings, documents and transcripts are to be prepared and certified for the record on appeal. If you fail to file a Praecipe within 30 days of this date, your right of appeal is forfeited.

COURT: Do you have any questions?
A:

C-10.04

STATE OF INDIANA
_____ COURT

In The Matter Of _____ CASE NO. _____

_____
A Child Alleged to be a Child in Need of Services

DISPOSITIONAL ORDER
(Supervision)

The State of Indiana appears by _____, (Attorney for County Office of Family and Children)(Deputy/Prosecuting Attorney). The child, _____ _____, appears in person (is excluded for good cause shown upon the record). The parent(s) _____ appear in person [and by counsel]. The (guardian ad litem) (CASA) _____ appear in person. Also, (Case Manager), _____ appears.

The CHINS petition comes on for a Dispositional Hearing.

The juvenile, parent, guardian or custodian (having entered an admission of CHINS) (having been found to be a CHINS) alleged in the Petition filed herein, the child is now (or as heretofore been) adjudicated a CHINS. The Court, after reviewing the predispositional report (and recommendation of the local coordinating committee) (hearing statements and evidence presented to the Court regarding the disposition of this cause), finds:

The needs of the child for care, treatment, or rehabilitation are:
_____
_____;

Participation by the parent, guardian or custodian in the plan of care for the child is necessary to:
_____
_____;

Reasonable efforts (were)(were not) made to (prevent the child's removal from) or (to reunite the child) with the child's parent, guardian, or custodian; *continuation of residence in the home of the parent/guardian would be contrary to the welfare of the child because* _____ *[the Court must make specific findings here]*

Family services offered or provided: _____
_____;

Chapter 10: Disposition

The court finds this disposition is the least restrictive and in the child's best interest.

Other findings of fact and reasons for the court's disposition *See* **IC 31-34-19-6**]:
_____
_____.

The legal settlement of the child is _____ and the _____ County Office of Family and Children should provide notice required by I.C. 20-8.1-6.1-5.5.

The child is now placed under supervision of the _____ County Office of Family and Children.

The Court now advises those present of the modification procedures under **IC 31-34-23.**

This case is set for a **Six Month Periodic Case Review Hearing in this Court on the _____ day of _____ at _____.M.**

This case is set for a **twelve month Permanency Hearing in this Court on the _____ day of _____ at _____.M.**

OPTIONAL

[ ] A Parental Participation Petition having been filed with this Court and jurisdiction obtained upon _____, parents (custodian or guardian) of the child the Court, after hearing evidence, finds the allegations contained in the Petition for Parental Participation are true and that the parents (guardian or custodian) shall participate in a treatment program or pay for services as follows:
(Set forth specifically what the parents are to do and for what they are to be financially responsible)_____
_____
_____
_____

OPTIONAL

[ ] The reasonable value of the _____ services provided for or on behalf of the child in this case is $_____.

[ ] _____
(Name of Parent(s), Guardian or Custodian) (Address)

is reasonably able to pay for said services and shall pay the sum of $_____, in payments of not less than $ _____,
per (week) (month).

[ ] _____
(Name of Parent(s), Guardian or Custodian) (Address)
is reasonably able to pay for said services and shall pay the sum of $_____, in payments of not less than $ _____, per (week) (month).
to the Clerk of Court, to be deposited by the Clerk in the {*Name of Agency/Fund Account}:*_____.

(OPTIONAL)

[ ] The Court now issues a Protective Order.

NOTE: The Protective Order should be separate from Dispositional Order and its format and distribution should conform to orders entered under **IC 31-34-20-4**

So ORDERED this _____ day of _____, _____.

_____
Judge

Distribution:
CASA/GAL
OFC
Attorney for OFC
Mother
Father
Others:

C-10.05

STATE OF INDIANA
_____ COURT

In The Matter Of _____ CASE NO. _____

_____
A Child Alleged to be a Child in Need of Services

DISPOSITIONAL ORDER
(Wardship for Purposes of Placement)

The State of Indiana appears by _____, (Attorney for County Office of Family and Children)(Deputy/Prosecuting Attorney). The child, _____ _____, appears in person (is excluded for good cause shown upon the record). The parent(s) _____ appear in person [and by counsel]. The (guardian ad litem) (CASA) _____ appear in person. Also, (Case Manager), _____ appears.

The CHINS petition comes on for a Dispositional Hearing.

The juvenile, parent, guardian or custodian (having entered an admission of CHINS) (having been found to be a CHINS) alleged in the Petition filed herein, the child is now (or as heretofore been) adjudicated a CHINS. The Court, after reviewing the predispositional report (and recommendation of the local coordinating committee) (and hearing statements and evidence presented to the Court regarding the disposition of the cause), finds:

The needs of the child for care, treatment, or rehabilitation are:
_____
_____
_____;

Participation by the parent, guardian or custodian in the plan of care for the child is needed to:_____
_____
_____;

Reasonable efforts (were)(were not) made to (prevent the child's removal from) or (to reunite the child) with the child's parent, guardian, or custodian. The continuation of the child in the home from which removed is not in the best interest of the child and would be contrary to the welfare of the child because _____ [the Court must make specific findings here];

The following family services were offered or provided: _____
_____
_____;

Other findings of fact and reasons for the court's disposition [***See*** **IC 31-34-19-6**]:
_____
_____.

Chapter 10: Disposition

The court finds this disposition is the least restrictive and in the child's best interest.

The legal settlement of the child is _____ and the _____ County Office of Family and Children should provide notice required by I.C. 20-8.1-6.1-5.5.

_____ is now made a ward of the _____
(name of juvenile)

County Office of Family and Children for placement in a suitable facility and the County Office of Family and Children is ordered to expend necessary funds for the care of said juvenile, all for the following reasons:
(Here include reasons for the disposition)
_____
_____

The Court now advises those present of the modification procedures under IC 31-34-23.

This case is set for a **Six Month Periodic Case Review Hearing in this Court on the _____ day of _____ at _____.M.**

This case is set for a **twelve month Permanency Hearing in this Court on the _____ day of _____ at _____.M.**

[ ] A Parental Participation Petition having been filed with this Court and jurisdiction obtained upon _____, parents (custodian or guardian) of the child, the Court, after hearing evidence, finds the allegations contained in the Petition for Parental Participation are true and that the parents (guardian or custodian) shall participate in a treatment program or pay for services as follows: (Set forth specifically what the parents are to do and for what they are to be financially responsible)_____
_____
_____
_____

[ ] The child support payable by _____ under case number _____ _____ is assigned to the _____ County Office of Family and Children until further order of this court. The Clerk of Court is directed to notify the _____ _____ Court of the assignment and assumption of jurisdiction by this Court.

[ ] Pursuant to the Child Support guidelines, _____ shall pay support to the Clerk of this Court in the amount of $_____ per _____, effective _____ and each _____ thereafter until further order of this Court. The child support payable under this order, as well as the cost of any medical care payable by the State under I.C. 12-15 is assigned to the _____ County Office of Family and Children until further order of this court.

[ ] The reasonable value of the _____ services provided for or on behalf of the child in this case is $_____.

[ ] _____
(Name of Parent(s), Guardian or Custodian) (Address)
is reasonably able to pay for said services and shall pay the sum of $_____, in payments of not less than $ _____,
per (week) (month).

[ ] _____
(Name of Parent(s), Guardian or Custodian) (Address)
is reasonably able to pay for said services and shall pay the sum of $_____, in payments of not less than $ _____, per (week) (month).

to the Clerk of Court, to be deposited by the Clerk in the {*Name of Agency/Fund Account}:*_____.

[ ] The Court now issues a Protective Order.

NOTE: The Protective Order should be separate from Dispositional Order and its format and distribution should conform to orders entered under **IC 31-34-20-4**

So ORDERED this _____ day of _____, _____.

_____
Judge

Distribution:
CASA/GAL
OFC
Attorney for OFC
Mother
Father
Others:

STATE OF INDIANA
_____ COURT

In The Matter Of _____ CASE NO. _____

_____
A Child Alleged to be a Child in Need of Services

FINDING AND ORDER
(Reasonable Efforts to Reunify Family Not Required, IC 31-34-21-5.6)

The State of Indiana appears by _____, (Attorney for County Office of Family and Children)(Deputy/Prosecuting Attorney). The child, _____ _____, appears in person (is excluded for good cause shown upon the record). The parent(s) _____ (do not appear) (appear in person) [and by counsel]. The (guardian ad litem) (CASA) _____ appear in person. Also, (Case Manager), _____ appears.

The CHINS petition comes on for a _____ Hearing.

The juvenile, parent, guardian or custodian (having entered an admission of CHINS) (having been found to be a CHINS) alleged in the Petition filed herein, the child is now (or as heretofore been) adjudicated a CHINS.

(*If applicable)* The Court, has reviewed the predispositional report (and recommendation of the local coordinating committee) (and has heard statements and evidence presented to the Court regarding the disposition of the case).

The Court now finds that *reasonable efforts* to reunify this child with the child's parent, guardian or custodian - or preserve this child's family *are not required.* The Court finds *that the following conditions exist:*

[ ] _____ (name), the parent, guardian or custodian has been convicted of (or a comparable offense in any other state, territory or country): (Causing Suicide); (Involuntary Manslaughter); (Rape); (Criminal Deviate Conduct); (Child Molesting); (Child Exploitation); (Sexual Misconduct with a Minor); (Incest)
--- *against a victim who is:* (the Child) (a Parent of the Child) *IC 31-34-21-5.6(b)(1)*
Specifically: _____
_____

[ ] _____ (name), the parent, guardian or custodian has been convicted of (or a comparable offense in any other state, territory or country): (Murder); (Voluntary Manslaughter)
--- *against a victim who is:* (a Child under the age of sixteen at the time of the offense); (the biological or adoptive child of [name]); (the child of a spouse of [name]). *IC 31-34-21-5.6(b)(2)*
Specifically: _____
_____

Chapter 10: Disposition

[ ] _____ (name), the parent, guardian or custodian has been convicted of (or a comparable offense in any other state, territory or country): (Battery as a Class B or C Felony); (Aggravated Battery); (Criminal Recklessness as a C Felony)
--- *against a victim who is:* (a Child under the age of sixteen at the time of the offense); (the biological or adoptive child of [name]); (the child of a spouse of [name]). *IC 31-34-21-5.6(b)(3).*
Specifically: _____
_____

[ ] _____ (name), the parental rights of a parent -- with regard to a biological or adoptive sibling of the Child who is a CHINS -- have been involuntarily terminated under: [IC 31-35-2 (involuntary termination involving a delinquent child or a CHINS)]; [IC 31-35-3 (involuntary termination involving a person convicted of a criminal offense)]; or any comparable law in any other state, territory or country. *IC 31-34-21-5.6(b)(4).*
Specifically: _____
_____

[ ] The child is an abandoned infant. The Court has appointed a GAL or CASA for the child, and after receiving a written report and recommendation from the GAL/CASA and after a hearing, the Court finds that reasonable efforts to locate the child's parents or reunify the child's family would not be in the best interests of the child. *IC 31-34-21-5.6(b)(5).*
Specifically: _____
_____

This case is set for a **Permanency Hearing, pursuant to IC 31-34-21-7, in this Court on the _____ day of _____ at _____.M.** *[Hearing must be held within thirty days]*

The _____ County Office of Family and Children shall prepare and file a **Permanency Plan** as required by IC 31-34-21-5.7. The Permanency Plan must be filed with this Court, *and a copy served upon all parties,* not later than five calendar days prior to the Permanency Hearing. The Permanency Plan shall include all information required by IC 31-34-21-7.5.

So ORDERED this _____ day of _____, _____.

_____
Judge

Distribution:
CASA/GAL
OFC
Attorney for OFC
Mother
Father
Others:

SCOPE NOTE
Court Orders to Parents

Parental participation in a program of care, treatment or rehabilitation of the child:
IC 31-34-20-3 (Order as part of Dispositional Decree)
IC 31-34-16 (Petition for Parental Participation)

Protective Orders
IC 31-34-17-1 (Standing)
IC 31-34-17-2 (Verification of Petition)
IC 31-34-17-3 (Caption; allegations)
IC 31-34-17-4 (Hearing; decree)
IC 31-34-17-5 (Protective Order depository)

A juvenile court has no jurisdiction to issue a protective order concerning custody without first acquiring jurisdiction of the underlying case, notwithstanding IC 31-30-1
Davis v. Winston, 535 N.E.2d 1240, (Ind. Ct. App. 1989).

"The juvenile court does have jurisdiction to authorize the sterilization if it has before it clear and convincing evidence the medical procedure is in the best interest of the child."
P.S. v. W.S., 452 N.E.2d 969 (Ind. 1983).

Expenses which a parent or guardian of the estate may be ordered to pay are as follows:

Guardian ad litem /CASA fees:
IC 31-40-3-1 (GAL/CASA fee = $100.00)
IC 31-32-3-9 (if any fees arise, payment shall be made under IC 31-40)
IC 31-33-15-3 (Costs of services of guardian ad litem)

Support for partially emancipated child:
IC 31-34-20-6

Outpatient social, psychological, psychiatric, medical or educational care:
IC 31-34-20-1(6)

Cost of services ordered and cost of returning child under IC 31-37-23 (Interstate Compact on Juveniles)
IC 31-40-1-2

Cost of services provided to child in need of services
IC 31-40-1-3

Chapter 11: Court Orders to Parents

Cost of returning child to Indiana under interstate compact
IC 31-40-1-4

Costs of Institutional Placement of Child; Remission of Support Payments; Enforcement
IC 31-40-1-5

Whenever the court removes the child and places the child in a child caring institution, family foster home, or home of a relative, the court shall assign the existing support order to the county office of family and children for the duration of placement. The court shall notify the court which entered the support order or had jurisdiction to modify or enforce the support order of the juvenile court's assignment and assumption of jurisdiction. IC 31-40-1-5(b)

If there is no existing support order, the court shall assign to OFC any rights to support, including the cost of medical care payable by the state under IC 12-15, from any parent or guardian who has a legal obligation to support the child. IC 31-40-1-5(c)(1).

If there is no existing support order, then the court shall establish support pursuant to the support guidelines payable to OFC, unless it would be unjust or inappropriate; or foster care maintenance payments are not being made. IC 31-40-1-5(c)(2).

If there is no existing support order, and the court does not enter a support order or does not follow the guidelines, then the court shall make findings as required by 45 CFR 302.56(g).
IC 31-40-1-5(c)(3).

The Title IV-D agency shall establish, modify, or enforce a support order assigned or entered. IC 31-40-1-5(e).

The court may, after a hearing, order the child's parent or guardian of the child's estate to reimburse the county office for all or a portion of the expenses for services provided to or for the benefit of the child while placed out of the home, in addition to the support payments. IC 31-40-1-5(g). The OFC may contract with the prosecuting attorney, the attorney for the office of family and children, or a private attorney for enforcement and collection. IC 31-40-1-6.

The court must also advise the parent that failure to participate as required by an order can lead to the termination of the parent-child relationship. IC 31-34-16-4.

Enforcement of orders to parents is through the contempt power of the court:
IC 31-40-1-5
IC 31-32-14-1
Mikel v. Elkhart County Department of Public Welfare, 622 N.E.2d 225 (Ind.Ct.App. 1993).

IC 31-32-14-1: The juvenile court may punish a person for contempt of court under IC 34-47.

Chapter 11: Court Orders to Parents

IC 34-47-1 (Applicability)
IC 34-47-2 (Direct Contempt of Court)
IC 34-47-3 (Indirect Contempt of Court)
IC 34-47-4 (Contempt Citations and Writs of Attachment)

See: the contempt "checklist" in the *Civil Benchbook:* Contempt 70.00.

PROCEDURE
Court Orders to Parents

1. Parental participation in a program of care, treatment or rehabilitation.

A. After adjudication, the person preparing the predispositional report shall consider the necessity, nature and extent of parental participation pursuant to IC 31-34-18-2.

B. The prosecutor, attorney for the county office of family and children, probation officer, caseworker, guardian ad litem or court appointed special advocate may sign and file a petition for parental participation under IC 31-34-16-1.

USE FORM C-11.03

C. At the Initial Hearing, the Court shall inform the parent or guardian of the child's estate of the effect of adjudication upon financial responsibility of parent or guardian pursuant to IC 31-34-10-5.

D. The court's order must specify reasons for such parental participation in accordance with IC 31-34-20-3. The court must also advise the parent that failure to participate as required by an order can lead to the termination of the parent-child relationship. IC 31-34-16-4.

USE FORM C-11.04

II. Protective Orders.

A. After notice, a hearing on an order to control the conduct of a person in relation to the child, examination or treatment of the child, to prevent the child from leaving the Court's jurisdiction must be held pursuant to T.R. 65 and IC 31-32-13.

B. An emergency order issued without notice is valid for up to seventy-two (72) hours (excluding Saturdays, Sundays and legal holidays) in accordance with IC 31-32-13-7 through 9.

III. Expenses which a parent or guardian of the estate **shall** pay.

A. The parent or guardian of the estate of any child returned to Indiana under the interstate compact for juveniles (IC 31-37-23) shall reimburse the county for all costs involved in returning the child whether or not the child has been adjudicated a child in need of services.

B. Upon terminating parental rights, any support obligations that accrued before termination are not affected except that the support payments shall be made under the juvenile court's order.

IV. Expenses which a parent or guardian of the estate may be ordered to pay.

A. An intake officer shall prepare a financial report on the parent or the estate of the child to assist the court in determining financial responsibility. See IC 31-34-18-3.

B. The juvenile court shall determine ability to pay and extent of hardship involved in payment. Non-payment may result in contempt proceedings. The court may enter judgment for the amount due. See IC 31-40-1-5

V. Enforcement of orders to parent is through contempt power of court.

IC 31-32-14-1: The juvenile court may punish a person for contempt of court under IC 34-47

IC 34-47-1 (Applicability)
IC 34-47-2 (Direct Contempt of Court)
IC 34-47-3 (Indirect Contempt of Court)
IC 34-47-4 (Contempt Citations and Writs of Attachment)

See: the contempt "checklist" in the *Civil Benchbook:* Contempt 70.00.

FORM C-11.05 AND C-11.06

C-11.03

STATE OF INDIANA
_____COURT

IN THE MATTER OF THE PARTICIPATION)
OF _____)

THE PARENT, GUARDIAN OR CUSTODIAN)
OF _____) CASE NO. _____

PETITION FOR PARENTAL PARTICIPATION

_____, (Deputy/Prosecuting Attorney, Attorney for County Office of Family and Children, Probation Officer, Caseworker, Guardian Ad Litem, Court Appointed Special Advocate),

being duly sworn upon his/her oath, states:

1. the respondent is the child's parent, guardian or custodian;
2. the child has been adjudicated a child in need of services; and
3. the parent, guardian or custodian should:
   (a) obtain assistance in fulfilling obligations as a parent, guardian or custodian;
   (b) provide specified care, treatment or supervision for the child;
   (c) work with any person providing care, treatment or rehabilitation for the child; or
   (d) refrain from direct or indirect contact with the child.
4. the_____requests the court order the parent, guardian
   (moving party)
   or custodian to:_____
   _____
   _____

WHEREFORE, it is respectfully requested that the Court set a hearing to require parental participation pursuant to this petition and for all other just relief, right and proper in the premises.

The undersigned affirms under the penalties for perjury that the foregoing representations are true.

Dated:_____

_____
Petitioner

C-11.04

STATE OF INDIANA

_____ COURT

In The Matter Of _____ CASE NO. _____

_____

A Child Alleged to be a Child in Need of Services

ORDER OF PARTICIPATION

The State of Indiana appears by _____, (Attorney for County Office of Family and Children) (Deputy/Prosecuting Attorney). The parent(s) (guardian)(custodian) appear in person. Also, (Intake Officer) _____, appears.

The juvenile having been adjudicated a child in need of services, the parents/guardian/custodian having been notified of this hearing, and evidence having been heard, the Court now finds:

[Here include findings of facts for parental participation.]

The court now orders _____, the

parents/guardian/custodian of the juvenile, to _____

_____

_____

_____

_____

Failure to comply as required by this order can lead to the termination of the parent-child relationship.

So ORDERED this _____day of _____, _____.

_____

Judge

C-11.05

STATE OF INDIANA

_____ COURT

In The Matter Of _____ CASE NO. _____

_____

A Child Alleged to be a Child in Need of Services

VERIFIED INFORMATION FOR RULE TO SHOW CAUSE

The undersigned _____, a _____
(name) (official capacity)
states that the following is true to the best of his/her knowledge/belief:

(1) That on the _____ day of _____, _____, this Court, in

this cause, ordered that _____ do the following:
(name)

_____

_____

_____

(2) That _____ has failed to comply with said order in that:
(name)

_____

_____

_____

(3) That _____ has no legal excuse or justification
(name)
for failing to comply with said order.

(4) That an Order to Show Cause shall be issued against _____
(name)

commanding such person to appear and show cause, if any such person may have, why such person should not be held in contempt of Court.

The undersigned affirms under the penalties for perjury that the foregoing representations are true.

_____	_____
Date	Petitioner

C-11.06

STATE OF INDIANA

_____ COURT

In The Matter Of _____ CASE NO. _____

_____

A Child Alleged to be a Child in Need of Services

ORDER TO SHOW CAUSE

For: The Sheriff of _____ County

To: _____
(name)

_____
(address)

_____

You are hereby commanded to appear before this Court on the _____ day of _____, _____, at _____ o'clock _____.M. to then and there show cause, if any you may have, why you should not be held in contempt of Court for failing to comply with the orders of Court entered the _____ day of _____, ____. In the event you should fail to appear, attachment may issue for your person.

So ORDERED this _____ day of_____, ____.

_____
Judge

SCOPE NOTE
Appeal

Appeals may be taken as provided by law: IC 31-32-15-1

A CHINS adjudication is not a final appealable judgment until dispositional order is entered. **Matter of M.R.**, 452 N.E.2d 1085 (Ind. Ct. App. 1983); **Matter of J.L.V.**, 667 N.E.2d 186 (Ind. Ct. App. 1996). But see **Hallberg v. Hendricks County Office of Family and Children**, 662 N.E.2d 639 (Ind. Ct. App. 1996), where the finding of CHINS was a final appealable judgment because the order, while not labeled dispositional, "finally determined the rights of the parties," and, in effect, was dispositional in nature, even though a separate dispositional hearing was not held.

SCOPE NOTE
Modification and Review

I. PROGRESS REPORTS

At any time after the date of the original dispositional decree, the juvenile court may order the county office of family and children or probation department to file a report on the progress made in implementing the decree. If, after reviewing the report, the juvenile court wishes to consider modification of the dispositional decree, it shall proceed under IC 31-34-23-1, 2. IC 31-34-21-1

II. MODIFICATION OF DISPOSITIONAL DECREE

A. **Statutory authority and procedure for modification**

While the juvenile court retains jurisdiction under IC 31-30-2-1, it may modify any dispositional decree:

(1) upon its own motion;

(2) upon the motion of the child, the child's parent, guardian, custodian, or guardian ad litem, the probation officer, the caseworker, the prosecutor, or the attorney for the county office of family and children; or

(3) upon the motion of any person providing services to the child or the child's parent, guardian or custodian under a decree of the court.

If the petitioner requests an emergency change in the child's residence, the court may issue a temporary order. However, the court shall then give notice to those persons affected and shall hold a hearing on the question if requested. If the petitioner requests any other modification, the court shall give notice to those persons affected and may hold a hearing on the question. If a hearing is required, IC 31-34-18 governs the preparation and use of a modification report. This report shall be prepared if the state or any person other than the child or the child's parent, guardian, guardian ad litem, or custodian is requesting the modification.
IC 31-34-23-1, 3

B. **Notice**

The modification statute, including the requirement of notice, must be strictly followed.
Matter of C.B., 616 N.E.2d 763 (Ind. Ct. App 1993).
Matter of L.J.M., 473 N.E.2d 637, at 640 (Ind. Ct. App. 1985).
S.L.B. v. State, 434 N.E.2d 155 (Ind Ct. App. 1982) holding that written notice specifically setting forth the grounds relied upon for modification is not required.

C. **Emergency change in detention or custody**

No change in detention or custody should be ordered, without notice, upon filing of a modification petition unless the petition alleges an emergency. In deciding whether to issue a temporary order, without notice, for emergency detention or custody, the court may consider the criteria for detention normally considered in the detention hearing under IC 31-34-4-5.

Matter of L.J.M., 473 N.E.2d 637, at 640 (Ind. Ct. App. 1985).

D. **Information required for modification report**

IC 31-34-18, incorporated by reference in IC 31-34-23.

E. **Evidence & Hearing**

Admissibility of modification report.
IC 31-34-19-2, IC 31-34-18.

Hearsay evidence is admissible in a modification hearing.
Matter of L.J.M., 473 N.E.2d 637 at 643 (Ind. Ct. App. 1985).

Financial inability to pay medical expenses by itself is insufficient to initiate or continue a CHINS proceeding. **Lake County Division of Family and Children Services v. Charlton**, 631 N.E. 2d 526 (Ind. Ct. App. 1993).

F. **Financial responsibility of parents**
IC 31-40-1-1, *et seq.*:

The statute governing the financial responsibility of parents for services are found in IC 31-40-1-1, *et seq*. Financial responsibility shall be considered at a modification hearing. IC 31-40-1-2 and 3. The Court shall order reimbursement unless it finds an inability to pay or justice would not be served by ordering payment. The standard of proof is a preponderance of the evidence.

III. MANDATORY REVIEW

A. **Six (6) Month Review**

In accordance with federal law, the case of each child in need of services under the supervision of the county office of family and children must be reviewed at least once every

six (6) months, or more often, if ordered by the Court. The first of these periodic reviews must occur at least six (6) months after the date of the child's removal from the child's parent, guardian or custodian; or at least six (6) months after the dispositional decree, whichever comes first. Each periodic case review must be conducted by the court in a formal hearing. IC 31-34-21-2.

At least five (5) days before the periodic review the county office of family and children shall send notice of the review to a broad group of interested persons. This group includes all parties to the action; the parent, guardian or custodian; the foster parents; prospective adoptive parents; any person providing care for the child although not a licensed foster parent and any other suitable relative or person who the county office knows has had a significant or caretaking relationship to the child. These individuals must be provided an opportunity to be heard and to make any recommendations to the Court. IC 31-34-21-4.

The Court must review the case plan, services and placement to determine whether the special needs and best interests of the child are being met. Additionally, the court must determine whether the county office of family and children has made reasonable efforts to provide family services and establish a projected date for the child's return home, the child's adoption, the child's emancipation or the appointment of a legal guardian. In making this determination, the court must consider the factors enumerated in IC 31-34-21. *See* IC 31-34-21-2, 4, 5.5, and 5.6 for review hearing procedures.

> **NOTE:** The Juvenile Benchbook Committee strongly encourages that review hearings be held more frequently than every six (6) months. An increased frequency in review hearings serves various purposes: (1) permits the court to address changes on a timely basis; (2) provides more meaningful opportunities for input from foster parents, case managers and CASA/GAL; (3) allows refinement of services and assistance provided to family members; and (4) moves the case toward a speedier closure in an effort to provide permanency for the child.

B. Reasonable Efforts to Preserve or Reunify Family Not Required

In general, the county office of family and children is required to make reasonable efforts to reunify or preserve a family. The child's health and safety are paramount in determining the extent to which such efforts must be made. IC 31-34-21-5.5.
At any phase of a child in need of services proceeding, the court can determine reasonable efforts to preserve or reunify a family are not required if it finds any of the following:

(1) The parent, guardian or custodian has been convicted of (or a comparable offense in any other state, territory or country): Causing Suicide; Involuntary Manslaughter; Rape; Criminal Deviate Conduct; Child Molesting; Child Exploitation; Sexual

Misconduct with a Minor; Incest
--- *against a victim who is:* the Child; a Parent of the Child. *IC 31-34-21-5.6(b)(1)*

(2) The parent, guardian or custodian has been convicted of (or a comparable offense in any other state, territory or country): Murder; Voluntary Manslaughter
--- *against a victim who is:* a Child under the age of sixteen at the time of the offense; or, the biological or adoptive child of the perpetrator; or, the child of a spouse of the perpetrator. *IC 31-34-21-5.6(b)(2)*

(3) The parent, guardian or custodian has been convicted of (or a comparable offense in any other state, territory or country): Battery as a Class B or C Felony; Aggravated Battery; Criminal Recklessness as a C Felony
--- *against a victim who is:* a Child under the age of sixteen at the time of the offense; or, the biological or adoptive child of the perpetrator; or, the child of a spouse of the perpetrator. *IC 31-34-21-5.6(b)(3).*

(4) The parental rights of a parent -- with regard to a biological or adoptive sibling of the Child who is a CHINS -- have been involuntarily terminated under: IC 31-35-2 (involuntary termination involving a delinquent child or a CHINS); IC 31-35-3 (involuntary termination involving a person convicted of a criminal offense); any comparable law in any other state, territory or country. *IC 31-34-21-5.6(b)(4).*

(5) The child is an abandoned infant [I.C. 31-9-2-0.5] -- *provided* that the Court has appointed a GAL or CASA for the child -- and after receiving a written report and recommendation from the GAL/CASA and after a hearing -- the Court finds that reasonable efforts to locate the child's parents or reunify the child's family would not be in the best interests of the child. *IC 31-34-21-5.6(b)(5).*

See FORM C-10.06.

When the Court finds reasonable efforts to reunify or preserve a family are not required, the local office of family and children must prepare a permanency plan. A hearing on the permanency plan must be held within 30 days after the finding by the court. A dispositional hearing to consider the parents' participation in any program of care and treatment for the child is not required, and a predispositional report need not be prepared. IC 31-34-21-5.7, 31-34-21-7(a)(1). In short, immediately after adjudication, or upon finding a child to be an abandoned infant, the court may proceed with a hearing to establish a permanency plan for the care and treatment of the child.

C. **Preparation of report**

Before the six (6) month case review or the mandatory formal twelve (12) month hearing, the probation department or the county office of family and children shall prepare a report on the progress made in rehabilitating the child, preventing placement out-of-home, or reuniting the family. If modification of the dispositional decree is recommended, the probation department or the county office of family and children shall prepare a modification report containing the information required under IC 31-34-18 and request a formal hearing. IC 31-34-21-3 and 8. IC 31-34-22-1

D. **Availability of report**

The report shall be made available to the child and parent, guardian, guardian ad litem, or custodian within a reasonable time unless the court determines on the record that the report contains information that should not be so released. In that event, the court shall provide a copy of the report to the attorney or guardian ad litem or any attorney representing a parent or guardian or custodian, and may provide a factual summary of the report to the child or parent, guardian, or custodian. IC 31-34-22-2

NOTE: While the statute does not require the report to be given to the CASA/GAL, the rules of civil procedure require all pleadings to be served on all parties. IC 31-34-9-7.

E. **Evidence & Hearing; Admissibility of report**

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. IC 31-34-22-3

Hearsay evidence is admissible in a review hearing. **Matter of L.J.M.,** 473 N.E.2d 637 at 643 (Ind. Ct. App. 1985).

F. **Discharge of child, parent, guardian or custodian**

When a 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. IC 31-34-21-11.

NOTE: All parental financial responsibility matters should be resolved prior to discharge.

IV. PERMANENCY PLANNING

A. Permanency Plan Hearing

The Court shall hold a permanency hearing within 30 days after finding reasonable efforts to preserve or reunify a family are not required; and/or every twelve (12) months after the earlier of the original dispositional decree or the date the child was removed from the parent, guardian or custodian. A permanency hearing may be held more often if ordered by the court. IC 31-34-21-7(a).

The court **shall** make the determination and findings required under IC 31-34-21-5. The Court shall also consider whether jurisdiction should continue, whether the dispositional decree should be modified and whether a permanency plan should be adopted or an existing permanency plan modified. IC 31-34-21-7(b).

There is a rebuttable presumption that jurisdiction over the child ends twelve (12) months after the earlier of the original dispositional decree or the date the child was removed from a parent, guardian or custodian. The local office of family and children may rebut this presumption by proving by a preponderance of the evidence that the objectives of the dispositional decree have not been accomplished, that a continuation of the decree with or without modifications is necessary, and that it is in the child's best interests for the court to maintain jurisdiction. If the local office does not sustain its burden, the court **shall** direct the local office to establish a permancency plan within 30 days, or discharge the child, parent, guardian or custodian. If a permanency plan is ordered, the court's jurisdiction continues to effectuate the terms of that plan. IC 31-34-21-7(c).

B. Contents of Permanency Plan

A permanency plan establishes permanent or long term arrangements for a child's care and custody which the court considers most appropriate and consistent with the child's best interests. The plan may include any of the following:

(1) Return to or continuation of existing custodial care within the home, or placement of the child with the noncustodial parent.

(2) Initiation of an action to terminate parental rights.

(3) Placement of the child for adoption.

(4) Placement of the child with a responsible person, including a suitable relative, who is able and willing to act as the child's permanent custodian and carry out

the responsibilities required by the permanency plan.

(5) Appointment of a legal guardian through the formal procedures established under Indiana law which is intended to be permanent. The guardian must assume full care, custody and control of the child, including making all decisions regarding the child's upbringing.

(6) Placement of the child in another planned, permanent living arrangement.

IC 31-34-21-7.5

The permanency plan must include a time schedule for its implementation and provisions for temporary or interim arrangements for the child's care and custody pending implementation.

If a permanency plan does not include reunification or preservation of the family, at subsequent hearings the court must determine if the local office of family and children has made reasonable efforts to effectuate and finalize the terms of the plan in a timely manner. IC 31-34-21-5.8.

IV. CORRECTING RECORDS

Correcting information in juvenile records. IC 31-39-7-1, IC 31-39-7-2.

PROCEDURE

I. MODIFICATION OF DISPOSITIONAL DECREE

Notice of Change of Status
USE FORM C-13.03

Order of Change of Status
USE FORM C-13.04. This form can be used when any change occurs in a child's placement. No hearing is required but may be ordered by the Court.

Petition for modification of dispositional decree:
USE FORM C-13.05

Order for hearing and notice, including temporary or emergency custody order:
USE FORM C-13.06

Notice of hearing to be issued by clerk:
USE FORM C-13.07

Order of court upon hearing of modification petition:
USE FORM C-13.09

Dialogue for modification hearing:
USE DIALOGUE C-10.03 (Although the name and purpose of the hearing would differ, the dialogue would be similar to original dispositional hearing.)

II. REVIEW

Order on formal six month review:
USE FORM C-13.10

Order on mandatory twelve (12) month review:
USE FORM C-13.11 or C-13.12

Dialogue for mandatory review hearing: USE DIALOGUE C-10.03 (Although the name and purpose of the hearing would differ, the dialogue would be similar to original dispositional hearing.)

STATE OF INDIANA

_____ COURT

In The Matter Of: Case No.
_____

_____
A Child Alleged to be a Child
In Need Of Services

NOTICE OF CHANGE OF STATUS

The _____ County Office of Family and Children advises the Court that:

_____

_____

_____.

Date of Change:_____ Caseworker:_____

Supervisor:_____

Photocopies:

Party (or attorney):_____
Address:_____ Zip:_____
Relationship of party to child:_____

Party (or attorney):_____
Address:_____ Zip:_____
Relationship of party to child:_____

Party (or attorney):_____
Address:_____ Zip:_____
Relationship of party to child:_____
and delivered by messenger to the CASA/GAL, if appointed.

Date:_____ _____
Family Case Manager

_____
Attorney for OFC

STATE OF INDIANA

_____ COURT

In The Matter Of: Case No.
_____

_____
A Child Alleged to be a Child
In Need Of Services

ORDER OF CHANGE OF STATUS

The Court, having received the Notice of Change of Status, now:

( ) sets this matter for review during the hearing previously set in this case.

( ) advances this matter for an earlier hearing to be held on the ____ day of _____, _____, at _____ __.M. The _____ County Office of Family and Children is ordered to notify the parties and to provide the following information or report at that hearing:
_____
_____
_____

the court further finds that
[ ] The removal of the child was authorized and necessary under IC 31-34-2-3 to protect the child; continuation of residence in the home of the parents/guardians would be contrary to the welfare of the child because:
_____
_____

[ ] reasonable efforts to reunify or prevent the removal of the child from the home were:
_____
_____
The statements of reasonable efforts as set forth in the pleadings and papers of the County Office of Family and Children filed herein are incorporated by reference.

SO ORDERED this _____ day of _____, _____.

_____
Judge

Distribution:
County OFC Attorney

County OFC Family Case Manager
GAL/CASA

STATE OF INDIANA

_____ COURT

In The Matter Of: Case No.
_____

_____
A Child Alleged to be a Child
In Need Of Services

PETITION FOR MODIFICATION OF DISPOSITIONAL DECREE

The petitioner, _____, alleges and says:

1. The capacity in which your petitioner files this petition is:
_____
_____
_____.
(here set forth capacity of petitioner as required by IC 31-34-23-1)

2. That on the ____ day of _____, _____, the court entered a dispositional decree in this case wherein_____
_____
_____.
(here set forth particulars of dispositional decree)

3. The petitioner further alleges and says:_____
_____
_____
_____
_____.
(here set forth details of facts justifying modification)

4. The current legal settlement for educational purposes is _____
_____.

5. The petitioner believes the following modification is necessary and appropriate:
_____
_____
_____
_____.
(here set forth particulars of requested change or information)

6. Referral (has) (has not) been made to the local coordinating committee. (If applicable)

7. A modification report (is) (is not) (being prepared for filing) (filed herewith).

8. The petitioner (does) (does not) request an emergency change in the child's placement for the following reason(s):

_____
_____
_____
_____
_____.

9. The following emergency order is requested:_____
_____
_____
_____.

WHEREFORE, the petitioner requests the following relief:

1. to schedule a hearing for this petition;
2. that notice be given to all affected persons, including said child, parent(s), guardian or custodian;
3. the modification of said dispositional decree as requested herein; and
4. for all further and proper relief, including the issuance of a temporary order, if an emergency has been alleged.

I affirm under the penalties of perjury that the foregoing representations and statements are true.

Dated:_____

_____
Petitioner

STATE OF INDIANA

_____ COURT

In The Matter Of: Case No. _____

_____
A Child Alleged to be a Child
In Need Of Services

ORDER FOR HEARING
AND NOTICE OF PETITION FOR MODIFICATION
(Including Temporary Order)

Comes now petitioner, _____, and files a Petition For Modification Of Dispositional Decree which is now considered by the Court and the Court being duly advised, now orders as follows:

The Court sets said Petition for hearing on the ____ day of _____, _____, at _____ o'clock __ .M.

The Court orders the Clerk of this Court to issue notice of hearing to the served upon said child and the following parent(s), guardian or custodian:_____
_____
_____.

( ) The petitioner having requested an emergency change in the child's placement, and the Court (having heard and considered the sworn testimony) (having considered an affidavit showing that an emergency exists), now finds that the following grounds for detention exists:

( ) the child is unlikely to appear before the juvenile court for subsequent proceedings:
( ) detention is essential to protect the child or the community;
( ) the parent, guardian, or custodian cannot be located or is unable or unwilling to take custody of the child; or
( ) the child has a reasonable basis for requesting that he/she not be released.

( ) The Court finds:

( ) an emergency exists and the child should be taken into custody.

( ) an emergency exists and the dispositional decree should be modified as follows:
_____
_____

[ ] The removal of the child was authorized and necessary under IC 31-34-2-3 to protect the child; continuation of residence in the home of the parents/guardians would be contrary to the welfare

of the child because: _____

[ ] reasonable efforts to reunify or prevent the removal of the child from the home were _____

The statements of reasonable efforts as set forth in the pleadings and papers of the County Office of Family and Children filed herein are incorporated by reference.

[ ] The Court orders the Clerk of this Court to endorse upon the notice of hearing issued in this case an order for the officer serving the notice to take the child into custody at once and deliver the child to _____
_____
_____for detention at
_____until further order of the Court.

SO ORDERED this ____ day of _____, _____.

_____
Judge

STATE OF INDIANA
_____ COURT

In the Matter Of: Case No. _____

_____
A Child Alleged to be a Child
In Need Of Services

NOTICE OF HEARING

TO: _____
_____
_____

You are hereby notified that a hearing is scheduled before the above Court on the ____ day of _____, _____, at _____.M., or as soon thereafter as the matter may be heard that day, in regards to the following:

( ) Periodic Case Review

( ) Permanency Hearing

( ) _____

You have the opportunity to be heard and to make any recommendations to the Court. The hearing will be held in your absence if you fail to appear.

Dated this ____ day of _____, _____.

_____
Clerk of the _____ Court
By _____ Deputy

Serve By:
( ) Sheriff of _____ Co.
( ) Certified Mail
( ) Other _____

STATE OF INDIANA

_____ COURT

In The Matter Of: Case No. _____

_____
A Child Alleged to be a Child
In Need Of Services

NOTICE OF HEARING ON PETITION FOR MODIFICATION

TO: _____
_____
_____

You are hereby notified that a hearing is scheduled before the above Court on the _____ day of _____, _____, at _____ __.M., or as soon thereafter as the matter may be heard that day, in regards to the following:

( ) the motion of the Court to consider modification of the dispositional decree;

( ) the Petition of _____
(Name and Capacity)
to modify the dispositional decree.

A copy of the motion or petition is attached hereto. **You have the opportunity to be heard and to make any recommendations to the Court. The hearing will be held in your absence if you fail to appear.**

Dated this ____ day of _____, _____.

_____
Clerk of the _____ Court
By _____ _____Deputy

Serve By:
( ) Sheriff of _____ Co.
( ) Certified Mail
( ) Other _____.

STATE OF INDIANA

_____ COURT

In The Matter Of: Case No. _____

_____
A Child Alleged to be a Child
In Need Of Services

ORDER GRANTING PETITION FOR MODIFICATION

The State of Indiana appears by _____, (Attorney for County Office of Family and Children) (Deputy/Prosecuting Attorney). The child (appears in person) (and by counsel, _____) (is excused from attending this hearing). The parent(s), (Guardian) (Custodian) _____ appear in person. Also, (CASA/GAL) Family Case Manager) (Probation Officer) (Intake Officer) appears.

The Court after hearing evidence, statements of interest persons, and after considering reports filed with the Court which are now admitted into evidence and made a part of the record, and being duly advised, finds and orders:

1. On the ____ day of _____, _____, the Court entered a dispositional decree in this case wherein _____
_____
_____
_____
(here set forth particulars of dispositional decree)

2. The following facts and circumstances have occurred since the dispositional decree was entered:
_____
_____
_____
_____

3. The child's needs at this time are _____
_____
_____
_____

4. It is in the best interest of the child to:

[ ] be removed from home at this time and placed in _____
_____

[ ] The child support payable by _____ under case number

_____ _____ is assigned to the _____ County Office of Family and Children until further order of this court. The Clerk of Court is directed to notify the _____ _____ Court of the assignment and assumption of jurisdiction by this Court.

[ ] Pursuant to the Child Support guidelines, _____ shall pay support to the Clerk of this Court in the amount of $_____ per _____, effective _____ and each _____ thereafter until further order of this Court. The child support payable under this order, as well as the cost of any medical care payable by the State under I.C. 12-15 is assigned to the _____ County Office of Family and Children until further order of this court.

[ ] modify the placement of the child from _____ _____ to _____

[ ] other:_____

5. The dispositional decree heretofore entered be modified and the Court finds this modification to be the least restrictive and in the child's best interest.

6. The legal settlement of the child for educational purposes is _____ _____, and the County Office of Family and Children should provide the notice as required by law.

7. Reasonable efforts were made to prevent removal from the home which efforts were not successful. (If applicable)

[ ] The removal of the child was authorized and necessary under IC 31-34-2-3 to protect the child; continuation of residence in the home of the parents/guardians would be contrary to the welfare of the child because: _____
_____

[ ] reasonable efforts to reunify or prevent the removal of the child from the home were :
_____
_____

The statements of reasonable efforts as set forth in the pleadings and papers of the County Office of Family and Children filed herein are incorporated by reference.

This case is set for **review** hearing on the _____day of _____, ____, at _____. and the parties are ordered to return to Court at said date and time without further notice.

SO ORDERED this _____ day of _____, ____.

_____

Judge

Distribution:

STATE OF INDIANA

_____ COURT

In The Matter Of: Case No. _____

_____
A Child Alleged to be a Child
In Need Of Services

ORDER ON PERIODIC CASE REVIEW

The State of Indiana appears by _____, (Attorney for County Office of Family and Children) (Deputy/Prosecuting Attorney). The child (appears in person) (and by counsel, _____) (is excused from attending this hearing). The parent(s), (Guardian) (Custodian) _____ _____ appear in person. Also, (CASA/GAL)(Family Case Manager) (Probation Officer) (Intake Officer) appears.

This matter comes before the Court for a periodic case review, and the Court after reviewing the progress report (and CASA/GAL report) filed herein which is/are now admitted into evidence and made a part of the record, and after hearing evidence and statement of interested persons, and after considering the factors listed in IC 31-34-21-5, finds as follows:

( ) The county office of family and children (has) (has not) complied with the child's case plan.
( ) The child (has) (has not) complied with the child's case plan.
( ) The child's parent, guardian, or custodian (has) (has not) complied with the child's case plan.
( ) The parent, guardian, or custodian (has) (has not) enhanced their ability to fulfill their parental obligations.
( ) The parent, guardian, or custodian (has)(has not) visited the child [include the reasons for infrequent visitation].
( ) The parent, guardian, or custodian (has) (has not) cooperated with the county office of family and children or probation department.
( ) The child (has)(has not) recovered from any injuries suffered before removal.
( ) Additional services (are) (are not) required for the child or the child's parent, guardian, or custodian [if required, state the nature of those services].
( ) The child (has)(has not) been rehabilitated.
( ) The child (is)(is not) in the least restrictive, most family-like setting.
( ) The child (is)(is not) placed close to the home of the child's parent, guardian, or custodian.
( ) The cause of the child's out-of-home placement or supervision (has)(has not) been alleviated.

( ) The child's parent, guardian, or custodian (has)(has not) participated or (has)(has not) been given the opportunity to participate in case planning, periodic case reviews, dispositional reviews, placement of the child, and visitation.

( ) The county office of family and children (has made) (has not made)(is not required to make) reasonable efforts to reunify or preserve a child's family.

( ) It (is)(is not) an appropriate time to prepare or implement a permanency plan for the child.

( ) That wardship should continue and the present placement in _____ is appropriate.

( ) That wardship should continue, but the placement of the child should be modified and the child now placed in _____ under the continuing supervision of the County Office of Family and Children.

( ) This case is set for further review hearing on the ____ day of _____, ____, at _____ __.M. and the parties are ordered to return to Court at said date and time without further notice.

( ) This case is set for permanency hearing on the ____ day of _____, ____, at _____ __.M. and the parties are ordered to return to Court at said date and time without further notice.

SO ORDERED this _____ day of _____, _____.

_____
Judge

Distribution:

STATE OF INDIANA

_____ COURT

In The Matter Of: Case No. _____

_____
A Child Alleged to be a Child
In Need Of Services

ORDER APPROVING PERMANENCY PLAN

The State of Indiana appears by _____, (Attorney for County Office of Family and Children)(Deputy/Prosecuting Attorney). The child, _____ _____, appears in person (is excluded for good cause shown upon the record). The parent(s) _____ appear in person [and by counsel]. The (guardian ad litem) (CASA) _____ appear in person. Also, (Case Manager), _____ appears.

This case is timely submitted and evidence heard on the proposed Permanency Plan filed by the Office of Family and Children.

The Court now incorporates the findings of reasonable efforts as set forth in the pleadings and papers of the Office of Family and Children for this hearing and further finds:

1. The child was born on _____, and is currently _____ years old.
2. The child was adjudicated a Child in Need of Services on_____.
3. The Court entered a Dispositional Order on _____.
4. The Office of Family and Children has filed a proposed Permanency Plan for the child, wherein the Office of Family and Children recommends that the child continue in placement/be returned to the parent's home/be placed for adoption/custody be transferred to _____/other _____ _____
5. That notification of the Permanency Hearing was properly served on all required persons pursuant to I.C. 31-35-2-6.5 or in the alternative, notice was waived.
6. The child is currently in placement in the parent's home/in foster care/in pre-adoptive placement/in relative placement/other: _____ and has resided at said location for approximately _____ (months)(years).
7. The child is progressing well in said placement.
8. The Office of Family and Children provided the following services:
   - [ ] referrals for in-home based services for _____
   - [ ] participation in counseling sessions for _____
   - [ ] participation in parenting classes for _____
   - [ ] participation in substance abuse counseling for _____
   - [ ] participation in anger management classes for _____
   - [ ] random urinalysis for _____
   - [ ] supervised visitation for _____

[ ] psycho-social assessment in order to determine needs for_____
[ ] other: _____
_____

9. _____(parent/guardian/custodian):
[ ] is in compliance with the plan as follows: _____
_____
[ ] is not in compliance with the plan as follows:_____
_____

10. _____(parent/guardian/custodian):
[ ] is in compliance with the plan as follows: _____
_____
[ ] is not in compliance with the plan as follows:_____
_____

11. A conference was held at the offices of the Office of Family and Children on _____ to discuss the implementation of a permanency plan for the child. (Parent[s]/ Guardian[s]/Custodian[s]) (appeared/failed to appear) at the conference. Permanency planning options were discussed regarding the least restrictive alternatives.

12. Of the permanency planning options available, the Court finds it is most appropriate and consistent with the best interest of the child to:
[ ] return to or continue existing custodial care
[ ] within the home of the child's (parent/ guardian/custodian), _____
[ ] placement of the child with the child's noncustodial parent _____
[ ] initiate a proceeding to terminate the parent-child relationship
[ ] be placed for adoption
[ ] be placed with _____, who is able and willing to act as the child's permanent custodian and carry out the responsibilities of the permanency plan
[ ] appoint a legal guardian for the child
[ ] be placed in a planned, permanent living arrangement with: _____; the compelling reason for this living arrangement is _____
_____

based on the foregoing findings the court concludes that the office of family and children has made reasonable efforts to finalize a permanency plan.

IT IS ORDERED THAT:

[ ] the child return to or continue existing custodial care
[ ] within the home of the child's (parent/ guardian/custodian), _____
[ ] placement of the child with the child's noncustodial parent _____
[ ] a proceeding be initiated to terminate the parent-child relationship under IC 31-35
[ ] the child be placed for adoption
[ ] the child be placed with _____, who is able and willing to act as the child's permanent custodian and carry out the responsibilities of the permanency plan
[ ] a legal guardian be appointed for the child

[ ] the child be placed in a planned, permanent living arrangement, _____.

The Office of Family and Children shall continue to monitor the child.

This case is set for review of implementation of the permanency plan on _____, ____, at _____a.m/p.m.

SO ORDERED this _____ day of _____, _____.

_____
Judge

Distribution:

STATE OF INDIANA

_____ COURT

In The Matter Of: Case No. _____

_____
A Child Alleged to be a Child
In Need Of Services

ORDER TERMINATING JURISDICTION

The State of Indiana appears by _____, (Attorney for County Office of Family and Children) (Deputy/Prosecuting Attorney). The child (appears in person) (and by counsel, _____) (is excused from attending this hearing). The parent(s), (Guardian) (Custodian) _____ _____ appear in person. Also, (CASA/GAL)(Family Case Manager) (Probation Officer) (Intake Officer) appears.

This matter comes before the Court for a hearing, and the Court after reviewing the progress report (and CASA/GAL report) filed herein which is/are now admitted into evidence and made a part of the record, and after hearing evidence and statement of interested persons, and finds:

1. The child and parent(s), guardian or custodian have complied with the child's case plan.

2. The parent(s), guardian or custodian has improved the ability to fulfill the parental obligations.

3. The objective of the dispositional decree have been accomplished.

4. There is no good cause shown why the Court should continue jurisdiction in this case.

IT IS THEREFORE ORDERED by the Court that the child and parent(s), guardian or custodian be, and are hereby, discharged and this case terminated.

[ ] The assignment of child support payable by _____ under case number _____ to the _____ County Office of Family and Children, as well as the cost of any medical care payable by the State under I.C. 12-15, is terminated. The Clerk of Court is directed to notify the _____ _____ Court of the termination of the assignment and jurisdiction by this Court.

SO ORDERED this _____ day of _____, ____.

_____
Judge

Distribution:

SCOPE NOTE
Miscellaneous

1. Miscellaneous Documents
This section contains documents which were deemed necessary by the Benchbook Committee but were incapable of being included in any previous Benchbook sections.

Form C-14.02 Petition to Expunge Records under IC 31-39-8
Form C-14.03 Order to Expunge Records under IC 31-39-8

2. General Information

a. Pursuant to IC 31-33 concerning the reporting and investigation of child abuse and neglect, the child protection team must include two designees of the juvenile court judge: IC 31-33-3-1(a)(2).

b. The child abuse hot line telephone number shall be listed in the local telephone directory with other emergency numbers. IC 31-33-7-3

3. Interstate Compact on the Placement of Children

The Interstate Compact for the placement of children in other states is governed by IC 12-17-8. The office of family and children administers transfers under that act.

NOTE: The Interstate Compact on Juveniles (IC 31-37-23-1) controls transfers of probation and runaways and is administered by probation.

4. Indian Child Welfare Act

This act impacts on state court jurisdiction! The requirements of the Indian Child Welfare Act apply whenever a child may be eligible for membership in an Indian tribe. 25 U.S.C. 1901 *et. seq.*

Often children with no apparent ties to Indians, a tribe, or a reservation, may fit the legal definition of "Indian child." Failure to apply the provisions of this act could result in decrees of adoption or other orders being subject to invalidation. The Indian Child Welfare Act applies to any proceeding in state court where the placement of an Indian child is possible, or where termination of parental rights is sought.
Matter of D.S., 577 N.E.2d 572 (Ind. 1991).

C-14.02

STATE OF INDIANA
_____ COURT

In The Matter Of _____ CASE NO. _____

_____
A Child Alleged to be a Child in Need of Services

PETITION TO EXPUNGE RECORDS

Comes now _____, and petitions the
(the petitioner)
Court to remove from its files all records pertaining to the involvement of

_____ in Juvenile Court proceedings in this Court
(name of child)
for the following reasons: *[See IC 31-39-8-3 for matters of circumstances the court may consider in making its determination.]*
_____

_____

Petitioner further requests that should the Court grant this petition an order be made and directed to each law enforcement agency and each person who provided treatment for this child, under an order of this Court, to send said petitioner's records to the Court for destruction or delivery to the person to whom they pertain.

WHEREFORE, Petitioner prays the Court grant this petition, expunge the records of the Court as to the petitioner, and make such further order to law enforcement agencies and persons as is necessary to carry out the intent of the statute.

_____
Petitioner

Attorney: _____

Address: _____

Telephone: _____

C-14.03

STATE OF INDIANA
_____ COURT

In The Matter Of _____ CASE NO. _____

_____
A Child Alleged to be a Child in Need of Services

ORDER GRANTING PETITION TO EXPUNGE RECORDS

The Court having considered the Petition for Expungement now finds and orders:

That in the best interests of the child and _____
(any other cause or reason)
_____ said petition should and shall be granted and all

records of this Court pertaining to said child shall be_____
_____.
(destroyed or delivered to the person to whom they pertain)

The Court further Orders and directs that all records of said child maintained by any law enforcement agency by _____, a person(s) who has furnished services to the child under Court Order shall be removed from their files and delivered to this Court for delivery or destruction. A copy of this Order shall be served upon (name(s) of law enforcement agency and/or person or department.)_____
_____
_____

SO ORDERED this ____ day of _____, _____.

_____

Judge _____ Court

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