

|                                                                                   |                                                                      |                                     |
|-----------------------------------------------------------------------------------|----------------------------------------------------------------------|-------------------------------------|
|  | <b>INDIANA DEPARTMENT OF CHILD SERVICES<br/>CHILD WELFARE MANUAL</b> |                                     |
|                                                                                   | <b>Chapter 6:</b> Court                                              | <b>Effective Date:</b> July 1, 2012 |
|                                                                                   | <b>Section 1:</b> Detention/Initial Hearing                          | <b>Version:</b> 4                   |

## **POLICY [REVISED]**

**[REVISED]** When a child is removed from the home of the parent, guardian, or custodian, a combined Detention/Initial Hearing will be held no later than 48 hours after the removal, excluding Saturdays, Sundays, and certain legal holidays, to determine if the Indiana Department of Child Services (DCS) has continued authority to detain the child. The combined Detention/Initial Hearing will take place after a removal when there was no prior court approval. The Detention/Initial hearing will always be combined unless DCS requests a Detention Hearing to obtain a court order prior to taking custody of a child.

If the combined Detention/Initial Hearing is not held within 48 hours after the removal, DCS will return the child to his or her parent, guardian, or custodian.

**[REVISED] Exception:** If a child is taken into custody as a safe haven or abandoned infant, DCS will ensure that a Detention/Initial Hearing is held no later than the next business day after the child is taken into custody. See separate policy [4.34 Safe Haven & Abandoned Infants](#).

**[NEW]** An Initial Hearing must be held within 10 business days after filing a Child In Need of Services (CHINS) petition when an In-Home CHINS is being pursued.

**[REVISED]** If the court chooses to schedule an additional Initial Hearing on a CHINS petition, this hearing must be held within 30 calendar days of the date of the combined Detention/Initial Hearing or Initial Hearing. The court may issue an order granting an extension for documented extraordinary circumstances

DCS will ensure that notice of the time, place, and purpose of the Detention/Initial Hearing is given to the following:

1. The child;

**Note:** If there has been a Guardian Ad Litem (GAL)/Court Appointed Special Advocate (CASA)/attorney for the child, the child can be served “(child’s name) by (name of GAL/CASA/attorney).” If no one has been appointed to represent the child, the custodial parent will be served. If there is no custodial parent, the foster parent will be served. In any event, if the child is 14 years of age or over, the child will be directly served with notice.

2. **[REVISED]** The child’s parent (including noncustodial, absent and alleged), guardian, or custodian, if the person can be located. See separate policies, [5.4 Noncustodial Parents](#) and [5.6 Locating Absent Parents](#);

**[REVISED] Note:** The Family Case Manager (FCM) must be prepared to submit an [Affidavit of Diligent Inquiry \(ADI\) \(SEARCH100801ADI\)](#) or advise the court regarding the efforts to complete the ADI at the time of the Detention/Initial Hearing if a parent (including noncustodial and absent), guardian or custodian are unable to be located.

3. The child's CASA or GAL if assigned;
4. The foster parent with whom the child has been placed; and
5. Any other person necessary for the proceedings.

**[REVISED] Note:** If a person receiving notice is a custodian of the child and is not a party to the case, DCS will give that person notice and a copy of the petition.

A person who is required to be notified will be given an opportunity to be heard and make recommendations to the court. If the child is too young, or for any other reason, unable to effectively communicate with the court, there should be sufficient information provided to the court by the DCS local office attorney detailing any special circumstance (i.e. physical or mental challenges) that may inhibit the child's ability to communicate with the court.

If the child's attendance at the hearings would neither benefit the child nor contribute to the proceedings, DCS will file a request for a court order to exclude the child from the proceedings.

**[REVISED]** DCS will ensure a summons is issued by the clerk of the court for subsequent hearings. For the Initial Hearing only, a copy of the CHINS petition must accompany each summons. DCS will personally deliver a copy of the petition and notice of the Detention/Initial Hearing to children alleged to be CHINS who have sufficient mental capacity to read and understand the contents of the document.

When a child is removed from his or her home, DCS will ensure that the following required federal language is included in the court order from the Detention/Initial Hearing:

1. That it is in the child's best interest to be removed from the home and that remaining in the home environment would be contrary to the health and welfare of the child;
2. Reasonable efforts were made or were not required to prevent or eliminate the removal; and
3. DCS has responsibility for the placement and care of the child.

**Note:** DCS staff attorneys should refer to the Juvenile Bench Book forms for guidance on ensuring the required federal language is included in the court order  
<http://www.in.gov/judiciary/forms/chins.html>

DCS will request separate hearings for parents if there are safety concerns.

#### Code References

1. [IC 31-34-2.5: Emergency Custody of Certain Abandoned Children](#)
2. [IC 31-34-5: Time for hearing; notice](#)
3. [IC 31-34-6: Detention of Alleged Child in Need of Services](#)
4. [IC 31-34-7-1: Preliminary Inquiry](#)
5. [IC 31-34-10-2\(h-k\): Initial hearing; service of copy of petition and summons; schedule of initial hearing; notice; petition alleging a child is a child in need of services; additional initial hearings](#)
6. [IC 31-34-10-2: Initial hearing; service of copy of petition and summons](#)
7. [IC 31-34-10-6: Admission or Denial of Allegations of a Petition](#)

8. [IC 31-34-10-9: Dispositional Hearing, Factfinding Hearing: consent](#)
9. [IC 31-34-2: Taking a Child In Need of Services into Custody](#)

## PROCEDURE

The Family Case Manager (FCM) will:

1. Ensure the following forms are completed (if applicable):
  - a. [Taking Custody of a Child without Verbal Consent or Written Court Order: Description of Circumstances \(SF 49584/CW0018\)](#), if the child was removed without a court order,
  - b. [Assessment of Alleged Child Abuse or Neglect \(SF 113/CW311\)](#), if the assessment was completed,
  - c. [Intake Officer's Report of Preliminary Inquiry and Assessment \(Investigation\) \(PIR1070108\)](#), and
  - d. Any other required forms or notices.
3. Obtain the date, time, and location of the Detention/Initial Hearing from the DCS Local Office Attorney;
4. Request separate hearings be held for the parents if safety concerns exist;
5. Assist the parent, guardian or custodian and child (if appropriate) in understanding the allegations in the petition before the Detention/Initial Hearing;
6. Ask the parent, guardian, or custodian to sign the Summons and the Advisement of Rights. If they refuse to sign, notify the DCS Local Office Attorney;

**Note:** These documents are not required to be signed before proceeding with the Detention/Initial Hearing.

7. Attend the scheduled Detention/Initial Hearing;

**Note:** The parent, guardian, or custodian will be given the opportunity to admit or deny the allegations of the petition at the combined Detention/Initial Hearing. See [Tool 6.B: Statutory Definition of CHINS](#).

- a. If the party admits to the allegations, the court will proceed to Agreed Entry (if appropriate), or issue a court order adjudicating the child a CHINS; then, the Dispositional Hearing will be set. See separate policy, [6.7 Dispositional Hearing](#), or
- b. If the party denies the allegations, the court will set the matter for a Fact-Finding hearing and the FCM is required to attend the Fact-Finding Hearing. See separate policy, [6.3 Fact-Finding Hearing](#).

**Note:** An Agreed Entry should not indicate an agreement that a child needs services without a factual basis.

8. **[REVISED]** Enter court hearing data in the Management Gateway for Indiana's Kids (MaGIK) and document whether Best Interest/Contrary to the Welfare, Reasonable Efforts to prevent placement, and Placement and Care responsibility were included in the detention order.

The Supervisor will:

1. Determine if it is appropriate for the child to be detained;

2. Ensure the CHINS petition is filed in a timely manner;
3. Assist the FCM, whenever necessary, to ensure that all Detention/Initial Hearing guidelines have been met. See separate policy, [6.4 Providing Notice](#); and
4. Assist the FCM in consulting with DCS Local Office Attorney if the request to hold separate hearings is denied for the parents when appropriate.

## PRACTICE GUIDANCE

N/A

## FORMS AND TOOLS

1. [Preliminary Report of Alleged Child Abuse or Neglect \(SF 114/CW310\)](#) – Available in MaGIK
2. [Assessment of Alleged Child Abuse or Neglect \(SF 113/CW311\)](#) – Available in MaGIK
3. [Taking Custody of a Child without Verbal Consent or Written Court Order: Description of Circumstances \(SF 49584/CW0018\)](#)
4. [Intake Officer's Report of Preliminary Inquiry and Assessment \(Investigation\) \(PIR1070108\)](#)
5. [Affidavit of Diligent Inquiry \(ADI\) \(SEARCH100801ADI\)](#)
6. [Tool 6.B: Statutory Definition of CHINS](#)
7. [Tool 6.A: Legal Process Overview](#)

## RELATED INFORMATION

### **CHINS Petition**

A written document alleging that the child is a child in need of services, and requesting the court to adjudicate the child as such. See Code References for further information.

### **Summons**

A document notifying a person of the filing of a lawsuit against the person. In CHINS cases, a summons is served upon the parent, guardian, or custodian of the child alleged to be a CHINS.

### **Preliminary Inquiry**

A written report, prepared by a FCM, including the child's background, current status, and school performance. The report relates facts and circumstances establishing reason to believe the child is a CHINS.

### **[REVISED] Detention**

An action taken by DCS that:

1. Restricts a parent's access to their child;
2. Removes a child from his or her parent, guardian or custodian; or
3. Alters the composition of a household of a child that exceeds five (5) days.

### **[NEW] Initial Hearing**

A court hearing where the parent, guardian or custodian is advised of their rights, presented with the allegations in the CHINS petition and given the opportunity to admit or deny the allegations. The hearing is required within 10 days of filing a CHINS petition unless the child is detained and a Detention/Initial hearing is held within 48 hours of removal.

### **[REVISED] Combined Detention/Initial Hearing**

A court hearing required within 48 hours of removal. This hearing represents the first of several steps in the adjudication and disposition of a CHINS case. The purpose of the combined Detention/Initial Hearing is for the court to determine whether DCS has probable cause to detain the child and to determine if the parent, guardian, or custodian admits or denies allegations set forth in the CHINS petition, and, if required, whether the child admits or denies the allegations.

**[REVISED] Note:** If the court chooses to schedule an additional initial hearing on a CHINS petition, this hearing must be held within 30 calendar days of the date of the Detention/Initial Hearing. The court may issue an order granting an extension for documented extraordinary circumstances

### **Reasonable Efforts**

The exercise of ordinary diligence and care by DCS to utilize all family preservation services available to:

1. Enable the child to live at home safely;
2. Effect the safe reunification of the child and family when it has been necessary to remove a child from the home to ensure immediate safety; or
3. Make and finalize alternate permanency plans in a timely manner when reunification is not appropriate or possible.

### **Interpreter at Court**

If a sign or other foreign language interpreter is needed, then the FCM should communicate with the court so that appropriate arrangements for an interpreter can be made. It is not always possible for an interpreter to be present for the Detention/Initial Hearing, since the hearing must be held within 48 hours of removal. If this occurs, ask the court to set it for a continued Initial Hearing so an interpreter can be present. DCS also has the option of petitioning for the use of telephonic testimony

### **[REVISED] Agreed Entry**

An agreement by the child's parents, based on factual information that a child(ren) is a CHINS.

### **Required Court Order Language**

During the first hearing when the child is removed from the home, required court order findings Best Interest/Contrary to the Welfare, Reasonable Efforts to prevent placement, and Placement and Care responsibility – are issued. If, however, the court failed to issue Reasonable Efforts or Placement and Care findings during the first hearing, it must be issued at the time of the Initial CHINS Hearing in order to meet required state and federal statutes for Title IV-E. DCS staff attorneys should refer to the Juvenile Bench Book forms for guidance on ensuring the required federal language is included in the court order. For further information about court order language please see <http://www.in.gov/judiciary/forms/chins.html>

|                                                                                   |                                                                       |                                       |
|-----------------------------------------------------------------------------------|-----------------------------------------------------------------------|---------------------------------------|
|  | <b>INDIANA DEPARTMENT OF CHILD SERVICES<br/>CHILD WELFARE MANUAL</b>  |                                       |
|                                                                                   | <b>Chapter 6: Court</b>                                               | <b>Effective Date:</b> August 1, 2011 |
|                                                                                   | <b>Section 2: Filing a Child in Need of Services (CHINS) Petition</b> | <b>Version:</b> 3                     |

## POLICY

**[REVISED]** The Indiana Department of Child Services (DCS) will initiate a Child in Need of Services (CHINS) petition when there is sufficient reason(s) to believe that a child is a victim of abuse and neglect or the child has a CHINS condition such as experiencing physical or emotional maltreatment, neglect, or other conditions, such as abandonment.

The situation must meet one or more of the CHINS definitions as set forth in the Indiana Code under IC 31-34-1-1 through IC 31-34-1-11, and DCS must show that coercive intervention of the court is necessary to protect the child. See [Tool 6.B: Statutory Definition of CHINS](#) for further details.

When the court has not received and accepted a parent/guardian/custodian's admission that there is a factual basis to establish that the child(ren) has a CHINS condition, and the parent/guardian/custodian desires to contest the facts alleged in the DCS CHINS petition, the parent/guardian/custodian(s) is entitled to a CHINS fact-finding hearing on whether the child has a CHINS condition.

**[REVISED]** DCS will protect the confidentiality of information shared during court proceedings and the safety of a parent who is alleged to be a victim of domestic violence. This may include, but is not limited to:

1. Presenting addresses and contact information for the parent who is an alleged victim of domestic violence in a sidebar;
2. Requesting that confidential information regarding the parent who is an alleged victim of domestic violence not be read aloud in the court room;
3. Requesting that security escort the parent who is an alleged victim of domestic violence and/or alleged domestic violence offender in and out of the court room and to their vehicle, if necessary; and/or
4. Requesting that service providers redact their service reports prior to providing a copy to the alleged domestic violence offender.

## Code References

1. [IC 31-34-1-11: Circumstances Under Which a Child Is a Child in Need of Services](#)
2. [IC 31-34-9: Filing of Petition Alleging That Child Is Child In Need of Services](#)

## PROCEDURE

The Family Case Manager (FCM) will:

1. Ensure that Indiana Child Welfare Information System Assessment Matrix supports the filing of a CHINS. See separate policy, [4.18 Safety Assessment](#);

2. Conduct a diligent search (see Forms and Tools, [Affidavit of Diligent Inquiry \(ADI\)\(SEARCH100801ADI\)](#) if either of a child's parents are unable to be located. See separate policy, [5.6 Locating Absent Parents](#);
3. Ensure that the CHINS petition includes a request for the court to make findings of Best Interests/Contrary to the Welfare, Reasonable Efforts to prevent placement, and Placement and Care responsibility to DCS if the recommendation is that the child continue to remain out-of-home, or be removed from the home and placed in substitute care;

**[REVISED] Note:** The FCM must be prepared to submit an [Affidavit of Diligent Inquiry \(ADI\) \(SEARCH100801ADI\)](#) or an update as to the progress toward completion of the ADI to the court at the time of the Detention/Initial Hearing. See Separate Policy [5.6 Locating Absent Parents](#).

4. Ensure the following forms are completed:
  - a. [Taking Custody of a Child without Verbal Consent or Written Court Order: Description of Circumstances \(SF 49584/CW0018\)](#), if the child was removed without a court order,
  - b. [Preliminary Report of Alleged Child Abuse or Neglect \(SF 114/CW310\)](#),
  - c. [Assessment of Alleged Child Abuse or Neglect \(SF 113/CW311\)](#), if the assessment is completed,
  - d. [Intake Officer's Report of Preliminary Inquiry and Assessment \(Investigation\) \(PIR1070108\)](#), and
  - e. Any other forms or notices in the Indiana Child Welfare Information System that are required.

**Note:** In cases where domestic violence has been identified, the FCM will ensure that proper redaction of a-e below occurs. All redactions should be completed in conjunction with the DCS Local Office Attorney.

5. Work with the DCS Local Office Attorney to complete and file all documents necessary for court proceedings. See separate policy, [6.4 Providing Notice](#).
6. Request separate hearings be held for a parent who is an alleged victim of domestic violence and alleged domestic violence offender, when appropriate; and
7. Staff with Supervisor to determine next steps if request for separate hearings is denied.

The Supervisor will:

1. Assist the FCM, whenever necessary, to complete the required CHINS documents;
2. Ensure the CHINS petition is filed in a timely manner; and
3. Assist the FCM if the request to hold separate hearings is denied for the non-offending parent and alleged domestic violence offender, when appropriate.

|                          |
|--------------------------|
| <b>PRACTICE GUIDANCE</b> |
|--------------------------|

N/A

|                        |
|------------------------|
| <b>FORMS AND TOOLS</b> |
|------------------------|

1. [Taking Custody of a Child without Verbal Consent or Written Court Order: Description of Circumstances \(SF 49584/CW0018\)](#) – Available in the Indiana Child Welfare Information System
2. [Intake Officer's Report of Preliminary Inquiry and Assessment \(Investigation\) \(PIR1070108\)](#) – Available in the Indiana Child Welfare Information System
3. [Preliminary Report of Alleged Child Abuse or Neglect \(SF 114/CW310\)](#) – Available in the Indiana Child Welfare Information System
4. [Assessment of Alleged Child Abuse or Neglect \(SF 113/CW311\)](#) – Available in the Indiana Child Welfare Information System
5. [Tool 6.B – Statutory Definition of CHINS](#)
6. [Affidavit of Diligent Inquiry \(ADI\) \(SEARCH100801ADI\)](#) – Available in the Indiana Child Welfare Information System

## RELATED INFORMATION

### **Child in Need of Services (CHINS)**

This policy applies to any child, regardless of whether the child remains in his or her home (referred to as an “in-home CHINS”) or is placed in out-of-home placement (referred to as an “out-of-home CHINS”).

### **Coercive Intervention**

The inability or unwillingness of the parent, guardian, or custodian to provide needed supervision, safety, protection, and/or services for a child without a court order.

### **Rebuttable Presumption**

An assumption made by a court, one that is taken to be true unless someone comes forward to contest it and prove otherwise.

### **Affidavit of Diligent Inquiry (ADI)**

A sworn statement that the individual made reasonable efforts to locate someone.

### **[REVISED] Standard of Evidence**

1. Preponderance of the evidence: Having the greater weight of the evidence; the superiority in weight of the evidence is more convincing (even if minimally) than the evidence presented by the other party, i.e., more than 50% of the evidence; the CHINS standard is “preponderance of the evidence.”
2. Clear and Convincing Evidence: as a standard of proof requires the existence of a fact “to be highly probable.” This is the standard of proof used in termination of parental rights cases.
3. Sidebar: a conversation held outside the hearing of the other persons present in the court. It usually includes the attorney for the parties, the judge, and the court reporter (who makes sure the conversation is recorded and becomes part of the case record).

|                                                                                   |                                                                      |                                       |
|-----------------------------------------------------------------------------------|----------------------------------------------------------------------|---------------------------------------|
|  | <b>INDIANA DEPARTMENT OF CHILD SERVICES<br/>CHILD WELFARE MANUAL</b> |                                       |
|                                                                                   | <b>Chapter 6:</b> Court                                              | <b>Effective Date:</b> August 1, 2011 |
|                                                                                   | <b>Section 3:</b> Fact-Finding Hearing                               | <b>Version:</b> 4                     |

## POLICY

**[REVISED]** The Fact-Finding hearing is the setting in which DCS must prove that the child has a condition as set forth in the Indiana Code under IC 31-34-1-1 through IC 31-34-1-11; DCS must show that the situation meets one or more of the Child In Need of Services (CHINS) definitions as set forth in the Indiana Code under IC 31-34-1-1 through IC 31-34-1-11, and DCS must show that coercive intervention of the court is necessary to protect the child. See [Tool 6.B: Statutory Definition of CHINS](#) for further details.

DCS will ensure that a CHINS fact-finding hearing takes place when either parent or another named party has evidence regarding the condition of the child who is alleged to be a Child in Need of Services and who desires to contest the facts alleged in the DCS CHINS petition.

DCS will provide notice of any Fact-Finding Hearing to all parties to the case and the resource parent or other caretaker with whom the child has been placed for temporary care. See separate policy, [6.4 Providing Notice](#).

DCS will request separate hearings for the parents if there are safety concerns, when appropriate.

**[REVISED]** DCS will protect the confidentiality of information shared during court proceedings and the safety of the non-offending parent. This may include, but is not limited to:

1. Presenting addresses and contact information for the parent who is an alleged victim of domestic violence in a sidebar;
2. Requesting that confidential information regarding the parent who is an alleged victim of domestic violence not be read aloud in the court room;
3. Requesting that security escort the parent who is an alleged victim of domestic violence and/or alleged domestic violence offender in and out of the court room and to their vehicle, if necessary; and/or
4. Requesting that service providers redact their service reports prior to providing a copy to the alleged domestic violence offender.

### Code References

1. [IC 31-34-5-1: Time for hearing; notice](#)
2. [IC 31-34-10-6: Admission or Denial of Allegations of a Petition](#)
3. [IC 31-34-10-9: Dispositional Hearing, Factfinding Hearing: consent](#)
4. [IC 31-34-11-1: Factfinding Hearing on Child in Need of Services \(CHINS\)](#)

## PROCEDURE

The FCM will:

1. Obtain the date, time, and location of the Fact-Finding Hearing from the DCS Local Office Attorney;

**Note:** The Fact-Finding Hearing will be held within 60 calendar days from the date the CHINS petition was filed. A pretrial conference may be ordered by the court, and under some limited circumstances an additional 60 calendar days is allowed. See Related Information for further details.

2. Request separate hearings be held for the non-offending parent and alleged domestic violence offender, when appropriate.
3. Attend the scheduled hearing:

**Note:** If the court determines that the child is a CHINS, they will proceed to the appropriate hearing. If the court determines that the child is not a CHINS, the case will be dismissed.

4. Enter court hearing data in the Indiana Child Welfare Information System. If Reasonable Efforts to prevent placement or Placement and Care responsibility findings are issued for the first time at this hearing, assure that this is entered in the Indiana Child Welfare Information System.

The Supervisor will:

1. Assist the FCM, whenever necessary, to ensure that all Fact-Finding Hearing requirements have been met. See separate policy, [6.4 Providing Notice](#).
2. Assist the Local Office Attorney with hearing preparation, including ensuring that the FCM is prepared to provide testimony during the Fact-Finding Hearing.

#### PRACTICE GUIDANCE

N/A

#### FORMS AND TOOLS

1. [Intake Officer's Report of Preliminary Inquiry and Assessment \(Investigation\)\(PIR1070108\)](#) - Available in the Indiana Child Welfare Information System
2. [Assessment of Alleged Child Abuse or Neglect \(SF 113/CW311\)](#) – Available in the Indiana Child Welfare Information System
3. [Tool 6.B: Statutory Definition of CHINS](#)
4. [Affidavit of Diligent Inquiry \(ADI\) \(SEARCH100801ADI\)](#) – Available in the Indiana Child Welfare Information System

#### RELATED INFORMATION

##### **Fact-Finding Hearing Requirements**

The juvenile court will complete a Fact-Finding Hearing not more than 60 calendar days after a petition alleging that a CHINS is filed. The juvenile court may extend the time to complete a Fact-Finding Hearing for an additional 60 calendar days if all parties in the action consent to the

additional time.

If the Fact-Finding Hearing is not held immediately after the Detention and Initial Hearing, the department will provide notice of any Fact-Finding Hearing to each party and resource parent or other caretaker with whom the child has been placed for temporary care, unless the court provided written notice at a previous hearing. The court will provide a person who is required to be notified an opportunity to be heard at the Factfinding Hearing.

As mentioned in [6.2 Filing a CHINS Petition](#), the Detention/Initial Hearing should have federally required findings included in the order for IV-E eligibility determination. The court order language includes Best Interest/Contrary to the Welfare, Reasonable Efforts, and Placement and Care for criteria purposes. The Detention/Initial Hearing also allows the FCM to gather pertinent information for the IV-E eligibility criteria that may have been previously missed or not available.

|                                                                                   |                                                                      |                                       |
|-----------------------------------------------------------------------------------|----------------------------------------------------------------------|---------------------------------------|
|  | <b>INDIANA DEPARTMENT OF CHILD SERVICES<br/>CHILD WELFARE MANUAL</b> |                                       |
|                                                                                   | <b>Chapter 6:</b> Court                                              | <b>Effective Date:</b> August 1, 2011 |
|                                                                                   | <b>Section 4:</b> Providing Notice                                   | <b>Version:</b> 2                     |

## POLICY

**[REVISED]** In a manner consistent with the Indiana Trial Rules, the Indiana Department of Child Services (DCS) will give written notice of lawsuit, Child In Need of Services (CHINS) hearings, Termination of Parental Rights (TPR) hearings, by mail or personal service, of all CHINS Hearings, to the following:

1. The child;

**Note:** If the child's attendance at the hearings would neither benefit the child nor contribute to the proceedings, DCS will file a request for a court order to exclude the child from the proceedings. To remove the obligation of DCS to provide notice to the child, the order must specifically address the issue.

2. Each parent, guardian, or custodian and Attorney of record;
3. Court Appointed Special Advocate (CASA) or Guardian Ad Litem (GAL); and
4. Resource parent(s) or long term foster parent.

**Note:** In Case Reviews and Permanency Hearings, notice must be sent to any fit and willing relative or person who the department knows has had a significant relationship with the child. If required consent to adoption has been received or Termination of Parental Rights (TPR) filed, notice must also be sent to prospective adoptive parent(s),

**[REVISED]** Providing proper notice that permits CHINS and TPR cases to proceed is the responsibility of the DCS local office attorney, who is to provide such legal notice pursuant to the [Indiana Trial Rules](#). In addition, notice of particular hearings must be provided 10 calendar days prior to the hearing for the following:

1. Periodic Case Review Hearings;
2. Permanency Hearings; and
3. Termination proceedings.

DCS will use one (1) of the following methods for serving notice of a hearing:

1. Mail – Notice may be given by mail, if the notice is deposited in the mail at least ten (10) calendar days prior to the scheduled hearing;

**Note:** Incarcerated parties must be sent, in care of the superintendent of the facility:

- a. CHINS Petition,
- b. Advisement of Rights, and
- c. Notice of all hearings.

2. Verbal – Verbal notice may be given, if the scheduled court hearing is less than 48 hours after the time the hearing is set by the court, excluding Saturdays, Sundays, and certain

legal holidays. DCS requires verbal notice<sup>1</sup> (i.e., date, time, location, and purpose of the proceeding) to the person who is required to be notified. The person providing verbal notice must verify by affidavit, testimony or other communication to the court at the hearing that verbal notice was given as required.

**Note:** Notice by DCS is not required if verbal notice of the date, time, location, and purpose of the proceeding is given by the court at an earlier hearing or proceeding at which the individual to be notified is present.

#### Code References

1. [IC 31-32-1-4: Notice of Court Proceedings](#)
2. [IC 31-32-1-4\(f\): Juvenile Court Procedures](#)
3. [IC 31-34-5-1: Time for Hearing; notice](#)
4. [IC 31-34-10-2: Initial hearing; service of copy of petition and summons](#)
5. [IC 31-34-11-1: Notice of Fact Finding Hearings](#)
6. [IC 31-34-19-1.3: Notice of Dispositional Hearings](#)
7. [IC 31-34-21-4: Notice of case review; testimony in periodic case review](#)
8. [IC 31-34-21-4.6: Long Term Foster Parent](#)
9. [IC 31-34-22-2: Providing copies of reports and factual summaries of reports](#)
10. [IC 31-35-2-6.5: Notice of Hearing \(Termination Cases\)](#)

#### **PROCEDURE**

The FCM will ensure notices are given to all appropriate parties in a timely manner via the DCS approved methods.

#### **PRACTICE GUIDANCE**

N/A

#### **FORMS AND TOOLS**

N/A

#### **RELATED INFORMATION**

##### **Right to be Heard**

Resource parents who are required to be notified, also have the right to be heard in all court proceedings pertaining to a child in their care.

##### **Long Term Resource Parent**

A resource parent who has provided care and supervision for a child for at least:

1. The 12 most recent months; or
2. 15 months of the most recent 22 months.

---

<sup>1</sup> The notice cannot be left on voice mail or with other persons not a party to the proceeding.

|                                                                                   |                                                                      |                                       |
|-----------------------------------------------------------------------------------|----------------------------------------------------------------------|---------------------------------------|
|  | <b>INDIANA DEPARTMENT OF CHILD SERVICES<br/>CHILD WELFARE MANUAL</b> |                                       |
|                                                                                   | <b>Chapter 6:</b> Court                                              | <b>Effective Date:</b> August 1, 2011 |
|                                                                                   | <b>Section 5:</b> Petition for Parental Participation (PPP)          | <b>Version:</b> 2                     |

## POLICY

The Indiana Department of Child Services (DCS) will file a Petition for Parental Participation (PPP) for any child that a court adjudicates as a Child in Need of Services (CHINS) case.

DCS will ensure the parent, guardian, or custodian receives a copy of the Parental Participation Decree (PPD).

### Code References

1. [IC 31-32-13: Issuance of Orders](#)
2. [IC 31-32-14: Contempt of Court](#)
3. [IC 31-34-16: Petition for Parental Participation](#)
4. [IC 31-34-20-3: Order for participation by parent, guardian, or custodian in program of care, treatment, or rehabilitation for child](#)

## PROCEDURE

The Family Case Manager (FCM) will:

1. Assist the DCS Local Office Attorney with writing the PPP, which must allege the following:
  - a. The respondent is the child's parent<sup>1</sup>, guardian, or custodian,
  - b. The child has been adjudicated a CHINS, and
  - c. The parent, guardian, or custodian is required to do one or more of the following:
    - 1) Obtain assistance in fulfilling obligations as parent, guardian, or custodian,
    - 2) Provide specified care, treatment, or supervision for the child,
    - 3) Work with a person providing care, treatment, or rehabilitation for the child, or
    - 4) Refrain from direct or indirect contact with the child.
    - 5) Maintain regular contact with DCS about changes in address, telephone number, or employment status.
2. Verify the PPP by signing the following statement: I hereby affirm under penalties for perjury that the foregoing representations are true;
3. Ensure the petition is prepared before or at the same time the [Predispositional Report \(PDR\) \(PDRR1070108\)](#) is filed with the court; and
4. Provide a copy of the Parental Participation Decree (PPD) to the parent, guardian, or custodian, and place a copy in the case file.

<sup>1</sup> This may include an alleged parent for purposes of IC 31-34-1, IC 31-34-8, IC 31-34-16, IC 31-34-19, IC 31-34-20.

**[REVISED] Note:** If the parent, guardian, or custodian fails to participate in court ordered services, document the reason(s) to support a Motion for Rule to Show Cause why the parent should not be held in contempt with the DCS Local Office Attorney by affidavit. See Related Information for further details.

**[REVISED]** The Supervisor will work with the FCM to ensure that the text of the PPP is appropriate for the court case.

1. The PPP should relate to the needs of the child and family. In the event that the child is removed from the care of the parents, the PPP should require activities that, if taken, would improve the parents' ability to alleviate the condition(s) that led to the removal of the child(ren).
2. In the event the parent, guardian, or custodian fails to comply with the PPD, the Local Office Attorney shall file a Motion for Rule to Show Cause with the court unless the Local Office Director gives specific instruction to the Local Office Attorney not to do so.

#### **PRACTICE GUIDANCE**

N/A

#### **FORMS AND TOOLS**

[Predispositional Report \(PDR\) \(PDRR1070108\)](#) - Available in the Indiana Child Welfare Information System

#### **RELATED INFORMATION**

##### **Rule to Show Cause**

The Verified Motion for Rule to Show Cause is a motion to the court that documents a parent, guardian, or custodian's failure to participate in court-ordered programs or services. The DCS Local Office Attorney can file a motion for Rule to Show Cause. The court will review the motion and supporting affidavit. If the court issues a Rule to Show Cause, the court will set a hearing and may find the parent, guardian, or custodian to be "in contempt of court" for not participating or enter an additional order for modification or enforcement of the PPD.

|                                                                                   |                                                                      |                                       |
|-----------------------------------------------------------------------------------|----------------------------------------------------------------------|---------------------------------------|
|  | <b>INDIANA DEPARTMENT OF CHILD SERVICES<br/>CHILD WELFARE MANUAL</b> |                                       |
|                                                                                   | <b>Chapter 6:</b> Court                                              | <b>Effective Date:</b> August 1, 2011 |
|                                                                                   | <b>Section 6:</b> Predispositional Report (PDR)                      | <b>Version:</b> 3                     |

## POLICY

The Indiana Department of Child Services (DCS) will prepare a [Predispositional Report \(PDR\) \(PDRR1070108\)](#) at least 10 calendar days prior to the Dispositional Hearing for any child that a court adjudicates a Child in Need of Services (CHINS).

DCS will ensure the [PDR](#) contains the following:

1. Statement of the needs of the child for care, treatment, rehabilitation, or placement;
2. Recommendation for the care, treatment, rehabilitation, or placement of the child;
3. Financial Report on the parent(s) and child. See Forms and Tools, [Child Support Worksheet](#);
4. Nature and extent of appropriate participation by parent, guardian, or custodian;
5. Legal Settlement Information (i.e., city and state of current residence of custodial parent or other caretaker when applicable);
6. **[REVISED]** Information about Child and Family Team (CFT) Meetings or Case Plan Conferences held and their outcomes, including any information about a Concurrent Plan for the child. See separate policy, [5.15 Concurrent Planning](#).

The following individuals may prepare an alternative report for consideration by the court:

1. The child, based upon age and developmental level; and
2. The child's:
  - a. Parent, guardian, or custodian, and
  - b. Court Appointed Special Advocate (CASA)/ Guardian ad Litem (GAL).

DCS will confer with appropriate individuals who have expertise in professional areas related to the child's needs. This may include representatives from the following:

1. DCS;
2. The child's school;
3. Probation Department;
4. A community mental health center (located in the child's county of residence);
5. A community mental retardation and other developmental disabilities center (located in the child's county of residence);
6. CFT; and/or
7. Other persons as the court may direct.

**Note:** If the child is eligible for special education services or placement, consultation with the school is mandatory.

### Code References

1. [IC 31-34-18: Predispositional Report](#)
2. [IC 31-34-20-5: Legal Settlement](#)

## PROCEDURE

The Family Case Manager (FCM) will:

1. **[REVISED]** Prepare and submit the [PDR](#) using the form provided in the legal forms database (QUEST). The form is also available in the Indiana Child Welfare Information System;
2. Coordinate with the DCS Local Office Attorney to file the [PDR](#) in a timely manner, according to the county's court procedure;
3. Seek Supervisor review and approval of the [PDR](#);
4. Sign the [PDR](#);
5. Provide a copy of the [PDR](#) 10 calendar days prior to the Dispositional Hearing to:
  - a. Each attorney, GAL, or CASA representing the child,
  - b. The attorney representing each child's parent, guardian, or custodian, and
  - c. Resource parent (not statutory but listed on the [PDR](#)).

**Note:** The court may determine on the record that the [PDR](#) contains information that should not be released to the child or the child's parent, guardian, or custodian. In that event, the court may provide a factual summary of the report to that individual.

6. Input and document information of household members and their relationships to one another, income sources and amounts, and financial resources is needed. Gathering and reporting information in the Indiana Child Welfare Information System at the time of the child's removal from the home will ensure greater accuracy when determining the child's eligibility for federal funding to cover the costs of substitute care.
7. Attach a [Case Plan \(SF 2956/CW0046\)](#) to the [PDR](#) if it has been completed and was not previously submitted to the court.

The Supervisor will approve and sign the [PDR](#).

## PRACTICE GUIDANCE

The court can incorporate the DCS predispositional report into its dispositional order.

## FORMS AND TOOLS

1. [Predispositional Report \(PDR\) \(PDRR1070108\)](#) – Available in the Indiana Child Welfare Information System
2. [Child Support Worksheet](#)
3. [Case Plan \(SF 2956/CW0046\)](#) – Available in the Indiana Child Welfare Information System

## RELATED INFORMATION

The PDR should include specific detail regarding the persons living in the household of the removed child. Details that should be included:

1. The relationship of these persons to the removed child;

2. Each parents place of residence;
3. Sources and amounts of income for each household member in the month the child was removed; and
4. Any diagnosed physical or mental illness of one or both of the parents

**Note:** These details can be used in determining a child's eligibility for Title IV-E Foster Care, Title IV-E waiver and/or Title IV-A Emergency Assistance

|                                                                                   |                                                                      |                                       |
|-----------------------------------------------------------------------------------|----------------------------------------------------------------------|---------------------------------------|
|  | <b>INDIANA DEPARTMENT OF CHILD SERVICES<br/>CHILD WELFARE MANUAL</b> |                                       |
|                                                                                   | <b>Chapter 6:</b> Court                                              | <b>Effective Date:</b> August 1, 2011 |
|                                                                                   | <b>Section 7:</b> Dispositional Hearing                              | <b>Version:</b> 3                     |

## POLICY

The Indiana Department of Child Services (DCS) will attend and participate in a Dispositional Hearing for every child adjudicated as a Child in Need of Services (CHINS).

**Note:** The juvenile court will complete a Dispositional Hearing not more than 30 days after the date the court finds that a child is a CHINS, to consider the following:

1. Alternatives for the care, treatment, rehabilitation, or placement of the child;
2. The necessity, nature, and extent of the participation by a parent, guardian, or custodian in the program of care, treatment, or rehabilitation for the child;
3. The financial responsibility of the parent or guardian of the estate for services provided for the parent or guardian or the child; and
4. Legal settlement of the child for school attendance, if the child has been removed from the home.

**[REVISED]** When a child is removed from his or her home, DCS will ensure that the following required federal language is included in the court order from the first hearing that authorizes the removal of the child(ren):

1. It is in the best interest of the child to be removed from the home environment and remaining in the home would be contrary to the health and welfare of the child;
2. Reasonable efforts have been made to prevent or eliminate the need for removal or the child OR reasonable efforts to prevent removal of the child were not required because of the emergency nature of the situation; and
3. DCS is given responsibility for the "placement and care" of the child.

See separate policies, [6.4 Providing Notice](#) and [6.6 Predispositional Report](#)

### Code References

[IC 31-34-19: Dispositional Hearing](#)

## PROCEDURE

Prior to the Dispositional Hearing, the Family Case Manager (FCM) will:

1. Follow all procedures contained in separate policy [6.6 Predispositional Report](#); and
2. Follow all procedures related to providing notice contained in a separate policy [6.4 Providing Notice](#).

**[REVISED]** If the child is first removed and placed in out of home care at the time of the Dispositional Hearing, the FCM should enter court hearing data in the Indiana Child Welfare

Information System to ensure that the issuance of court order language regarding Reasonable Efforts and Placement and Care responsibility, which is necessary for determining the child's eligibility for federal funding to cover the costs of substitute care is reflected.

The Supervisor will assist the FCM in preparation for the Dispositional Hearing and ensure that the court order findings are appropriately documented in the Indiana Child Welfare Information System.

#### **PRACTICE GUIDANCE**

N/A

#### **FORMS AND TOOLS**

[Predispositional Report \(PDR\) \(PDRR1070108\)](#) – Available in the Indiana Child Welfare Information System

#### **RELATED INFORMATION**

##### **Dispositional Hearing**

The purpose of the Dispositional Hearing is for the court to enter a Dispositional Decree in the case and consider the alternatives for the plan of care, treatment, rehabilitation, and placement of the child which best address the specific case and the child's needs.

##### **The Dispositional Hearing's Findings and Conclusions**

The court will accompany the court's Dispositional Decree with written findings and conclusions upon the record concerning the following:

1. The needs of the child for care, treatment, rehabilitation, or placement;
2. The need for participation by the parent, guardian, or custodian in the plan of care for the child;
3. Reasonable Efforts have been made, if the child is a CHINS, to:
  - a. Prevent or eliminate the need for removal of the child, or
  - b. Prevent removal of the child were not required because of the emergency nature of the situation.
4. Family services that were offered and provided to:
  - a. A CHINS, or
  - b. The child's parent, guardian, or custodian.
5. The court's reasons for the plan of care, treatment, rehabilitation, or placement of the child as ordered or approved by the court; and
6. DCS is given responsibility for placement and care of the child.

**Note:** The juvenile court may incorporate a finding or conclusion from a Predispositional Report as a written finding or conclusion upon the record in the court's Dispositional Decree under [IC 31-34-19-10\(b\)](#).

The FCM must update hearing information in the Indiana Child Welfare Information System when the court issues findings regarding Reasonable Efforts to Finalize the Permanency Plan and Placement and Care responsibility for a child that is already placed in out-of-home care. These findings are necessary for determining the child's ongoing eligibility for federal funding.

**Effective January 1, 2009**

Prior to the Dispositional Decree, if a CHINS Court disagrees with the placement, service(s), or program(s) offered, implemented or not offered by DCS, the Court is required to give the option recommended by the court to DCS for consideration. DCS will be given three (3) days from when DCS receives the court's order to consider the option recommended by the court and provide a report to the court. The report will let the court know what decision has been made as to the recommended placement, program or service and why. If the court continues to disagree, an Order may result. DCS must follow the order of the court but will have an opportunity to appeal the decision, if applicable.

After the Dispositional Decree, if a CHINS court disagrees with the placement, service(s) or program(s) offered, implemented or not offered by DCS, the court is required to give the option recommended by the court to DCS for consideration. DCS will have seven (7) days from the date it receives the order to reconsider the option and provide a supplemental [Predispositional Report \(PDR\) \(PDRR1070108\)](#) to the court. The supplemental PDR will let the court know what decision has been made as to the recommended placement, program or service and why. If the court continues to disagree, an order may result. DCS must follow the order of the court but will have an opportunity to appeal the decision, if applicable.

|                                                                                   |                                                                      |                                       |
|-----------------------------------------------------------------------------------|----------------------------------------------------------------------|---------------------------------------|
|  | <b>INDIANA DEPARTMENT OF CHILD SERVICES<br/>CHILD WELFARE MANUAL</b> |                                       |
|                                                                                   | <b>Chapter 6:</b> Court Involvement                                  | <b>Effective Date:</b> August 1, 2011 |
|                                                                                   | <b>Section 8:</b> Three Month Progress Report                        | <b>Version:</b> 3                     |

## POLICY

The Indiana Department of Child Services (DCS) will prepare and submit to the court a [Progress Report \(PermRptR1070108\)](#) for every child under the care and supervision of DCS, as follows:

1. Every three (3) months after the Dispositional Decree; and
2. At any time after the date of an original Dispositional Decree, the court may order DCS to file a Progress Report on the progress made in implementing the decree.

**Note:** If modification of the Disposition Decree is recommended, DCS will prepare a [Modification Report \(ModRptR1070108\)](#) containing the information required and submit it to the DCS Local Office Attorney so a formal court hearing can be requested.

At a minimum, the [Progress Report \(PermRptR1070108\)](#) will include information regarding progress made in implementing the Dispositional Decree. See Related Information for further details.

DCS will submit a [Progress Report \(PermRptR1070108\)](#) to the court at least 10 days prior to a Periodic Case Review Hearing.

Within a reasonable time after the report's presentation to the court or before the Periodic Case Review Hearing, DCS will make a copy of the [Progress Report \(PermRptR1070108\)](#) available to the following:

1. The child, based upon age and developmental level;
2. The child's parent, guardian, or custodian;
3. An attorney who has entered an appearance on behalf of the child's parent, guardian, or custodian;
4. Resource parent(s);
5. Prospective adoptive parent named in a petition for adoption of the child if:
  - a. Each consent to adoption of the child has been signed and received by the DCS local office,
  - b. The court having jurisdiction in the adoption case has determined that consent to adoption is not required from a parent, guardian, or custodian, or
  - c. A petition has been filed to terminate the parent-child relationship between the child and any parent who has not signed a written consent to adoption.
6. Any other suitable relative or person who has a significant or care taking relationship with the child;
7. Court Appointed Special Advocate (CASA) or Guardian ad Litem (GAL); and
8. Long-term Resource Parent, if applicable. See Related Information for further details.

**Note:** Proof of service of the notice will be presented at the case review.

**Note:** The court may also provide a factual summary of the [Progress Report \(PermRptR1070108\)](#) to the child's parent, guardian, custodian, or resource parent.

**Exception:** If the court determines on the record that the [Progress Report \(PermRptR1070108\)](#) contains information that should not be released to any person who is otherwise entitled to receive a [Progress Report \(PermRptR1070108\)](#), the court is not required to make the [Progress Report \(PermRptR1070108\)](#) available to that person, but may provide them with a redacted copy of the report. However, the court will provide a copy of the [Progress Report \(PermRptR1070108\)](#) to the following:

1. Each attorney or CASA/GAL representing the child; and
2. Each attorney representing the child's parent, guardian, or custodian.

#### Code References

1. [IC 31-34-21-1: Progress reports; procedure for modification of decree](#)
2. [IC 31-34-21-4: Notice of case review; testimony in periodic case review](#)
3. [IC 31-34-21-4.6: Long-term Foster Parent](#)
4. [IC 31-34-22: Reports Required for Reviewing Dispositional Decrees](#)

### PROCEDURE

The Family Case Manager (FCM) will:

1. Consult with the parent, guardian, custodian, resource parent, or any other professionals who have expertise related to the child and family's needs;
2. Prepare the [Progress Report \(PermRptR1070108\)](#);
3. Attach any additional reports to the [Progress Report \(PermRptR1070108\)](#);
4. Obtain supervisory approval and signature;
5. Sign the [Progress Report \(PermRptR1070108\)](#);
6. Coordinate the filing of the [Progress Report \(PermRptR1070108\)](#) with the court;
7. Make a properly redacted copy of the [Progress Report \(PermRptR1070108\)](#) available to all appropriate parties and persons; and
8. Update the child's and/or family's information in the Indiana Child Welfare Information System as needed when changes occur regarding income and resources, parent's place of residence, and household membership.

The Supervisor will:

1. Review and make any recommendations regarding the [Progress Report \(PermRptR1070108\)](#); and
2. Approve and sign the [Progress Report \(PermRptR1070108\)](#).

### PRACTICE GUIDANCE

N/A

### FORMS AND TOOLS

1. [Progress Report \(PermRptR1070108\)](#) - Available in the Indiana Child Welfare Information System
2. [Modification Report \(ModRptR1070108\)](#) - Available in the Indiana Child Welfare Information System
3. [Case Plan \(SF 2956/DCS0046\)](#) – Available in the Indiana Child Welfare Information System

|                            |
|----------------------------|
| <b>RELATED INFORMATION</b> |
|----------------------------|

**Report Content**

The [Progress Report \(PermRptR1070108\)](#) should address the following elements. The court will consider these elements when making its determinations, including but not limited to:

1. Services -
  - a. Documentation of the family services offered and/or provided to the child or the parent, guardian, or custodian, the dates of the services, and the outcome,
  - b. Health and educational information, and
  - c. Any additional services required for the child or the child's parent, guardian, or custodian and the nature of those services.
2. Visits -
  - a. The extent to which the parent, guardian, or custodian has visited the child, including the reasons for infrequent visitation, if applicable, and
  - b. If siblings are separated, the extent to which sibling visits are occurring, including reasons for infrequent visitation, if applicable.
3. **[REVISED] Compliance and Cooperation** -
  - a. The extent to which the parent, guardian, or custodian has cooperated, participated and benefited in DCS Court Ordered services with DCS or the Probation Department, and
  - b. Whether DCS, the child, and the parent, guardian, or custodian have complied with court ordered services outlined in the [Case Plan \(SF 2956/DCS0046\)](#) (to be attached when necessary).
4. **[REVISED] Child's Placement** - (if the child is placed in out-of-home care)
  - a. Whether the child is in the least restrictive, most family-like setting,
  - b. Whether the child is placed close to the home of the child's parent, guardian, or custodian,
  - c. Whether siblings are placed together,
  - d. Whether the child is placed in proximity to the school in which they were enrolled in at the time of removal,
  - e. An explanation as to why, if these conditions are not met, including efforts being made to find a more appropriate placement if applicable.
5. Outcomes -
  - a. The extent to which the causes for the child's out-of-home placement or supervision have been alleviated,
  - b. The extent to which the parent, guardian, or custodian has enhanced his or her ability to fulfill parental obligations including if there are any limitations due to mental or physical disabilities as well as changes in employment status,

- c. Parent(s) current living arrangement, and
  - d. The extent to which a child's education and health is improved.
6. Consultations –
- a. Identify all professionals consulted and their relationship to the child, and
  - b. Identify all persons who are part of the Child and Family Team (CFT), their relationship to the child and each meeting coordinated with them.
7. Recommended Plan of Care -
- a. Treatment,
  - b. Rehabilitation, and
  - c. Placement for the child.

**Redaction**

A process where a document is reviewed thoroughly to cover and make illegible portions of the text prior to release.

**Long-term Resource Parent**

A resource parent who has provided care and supervision for a child for at least:

- 1. The twelve (12) most recent months; or
- 2. Fifteen (15) months of the most recent twenty-two (22) months.

|                                                                                   |                                                                      |                                          |
|-----------------------------------------------------------------------------------|----------------------------------------------------------------------|------------------------------------------|
|  | <b>INDIANA DEPARTMENT OF CHILD SERVICES<br/>CHILD WELFARE MANUAL</b> |                                          |
|                                                                                   | <b>Chapter 6: Court</b>                                              | <b>Effective Date:</b> September 1, 2012 |
|                                                                                   | <b>Section 9: Periodic Case Review Hearing</b>                       | <b>Version:</b> 4                        |

## POLICY

**[REVISED]** The Indiana Department of Child Services (DCS) will attend and participate in a Periodic Case Review Hearing:

1. At least once every three (3) months, after the date of the child's removal from the child's parent, guardian, or custodian; or
2. At least three (3) months after the date of the Dispositional Decree, whichever comes first.

DCS will provide notice at least 10 calendar days before the Periodic Case Review Hearing to the following:

1. The child;
2. The child's parent, guardian, or custodian;
3. An attorney who has entered an appearance on behalf of the child's parent, guardian, or custodian;
4. Court Appointed Special Advocate (CASA) or Guardian ad Litem (GAL);
5. Resource parent or long-term resource parent. See Related Information for further details; and
6. Witnesses for hearings.

### Code References

1. [IC 31-34-21-2: Periodic case review](#)
2. [IC 31-34-21-3: Progress report required before case review](#)
3. [IC 31-34-21-4: Notice of case review; testimony in periodic case review](#)
4. [IC 31-34-21-4.6: Long-term Foster Parent](#)
5. [IC 31-34-21-5: Determination; findings](#)
6. [IC 31-34-21-7: Permanency Hearing](#)

## PROCEDURE

Prior to the hearing, the Family Case Manager (FCM) will:

1. Provide the Three Month Progress Report during the Periodic Case Review. See separate policy, [6.8 Three Month Progress Report](#);
2. Provide notice to all required parties. See separate policy, [6.4 Providing Notice](#);
3. Ensure that the [Notice of Periodic Case Review \(SF 48997/CW0002\)](#) or [Progress Report \(PermRptR1070108\)](#) from the Indiana Child Welfare Information System is printed and sent to the required parties at least 10 calendar days in advance, if the Notice Section of the [Progress Report \(PermRptR1070108\)](#) was not completed and previously sent for the scheduled hearing;
4. Coordinate witnesses for hearing with the DCS Local Office Attorney; and
5. Attend the hearing prepared to testify.

Following the hearing, the FCM will enter the following into the Indiana Child Welfare Information System:

1. Placement and care responsibility;
2. Reasonable efforts to finalize the Permanency Plan; and
3. All other required data.

The Supervisor will:

1. Assist the FCM in preparation for the Periodic Case Review Hearing; and
2. Ensure all required data and court findings were entered into the Indiana Child Welfare Information System.

#### **PRACTICE GUIDANCE**

NA

#### **FORMS AND TOOLS**

1. [Notice of Periodic Case Review \(SF 48997/CW0002\)](#) – Available in the Indiana Child Welfare Information System
2. [Progress Report \(PermRptR1070108\)](#) - Available in the Indiana Child Welfare Information System
3. [Case Plan \(SF 2956/DCS0046\)](#) – Available in the Indiana Child Welfare Information System

#### **RELATED INFORMATION**

##### **Long-term Resource Parent**

A resource parent who has provided care and supervision for a child for at least:

1. The 12 most recent months; or
2. 15 months of the most recent 22 months.

|                                                                                   |                                                                      |                                          |
|-----------------------------------------------------------------------------------|----------------------------------------------------------------------|------------------------------------------|
|  | <b>INDIANA DEPARTMENT OF CHILD SERVICES<br/>CHILD WELFARE MANUAL</b> |                                          |
|                                                                                   | <b>Chapter 6:</b> Court                                              | <b>Effective Date:</b> September 1, 2012 |
|                                                                                   | <b>Section 10:</b> Permanency Plan                                   | <b>Version:</b> 4                        |

## **POLICY [REVISED]**

The Indiana Department of Child Services (DCS) will identify and recommend to the court a Permanency Plan and a Concurrent or Alternative Plan for every child adjudicated as a Child in Need of Services (CHINS). See separate policy, [5.15 Concurrent Planning](#).

The Permanency Plan will be identified in the [Case Plan \(SF 2956/DCS0046\)](#) no later than 45 days after the date the child is removed from the home or date of disposition, whichever comes first.

DCS will make reasonable efforts to reunify the child with his or her family unless the court finds that reasonable efforts to reunify are not required.

**Note:** If the court determines no reasonable efforts are required, a Permanency Hearing must be held within 30 days of the finding.

When reunification is not appropriate or possible, DCS will make and recommend to the court an alternate Permanency Plan in a timely manner. DCS will seek court approval of all Permanency Plans and subsequent changes.

DCS will inform the child and document the child's views in the Permanency portion of the [Progress Report](#).

**Note:** If the child is at least 16 years of age and the proposed Permanency Plan provides for the transition of the child from out-of-home placement to independent living, the court will:

- a. Require DCS to send notice of the Permanency Hearing to the child, and
- b. Provide the child an opportunity to be heard and to make recommendations to the court. See separate policies, [5.8 Developing a Case Plan](#), and [6.11 Permanency Hearing](#).

### Code References

1. [IC 31-34-21-5.6: Exceptions to requirement to make reasonable efforts to preserve and reunify families](#)
2. [IC 31-34-21-5.7: Permanency plan; requirement; approval; reports and orders not required](#)
3. [IC 31-34-21-7: Permanency hearing](#)
4. [IC 31-34-21-7.5: Permanency plans prohibited if household contains certain individuals; exceptions](#)
5. [IC 31-34-21-7.7: Permanency plan; guardianship](#)
6. [45 CFR 1356.21: Application of the permanency hearing requirements](#)
7. [31-34-21-5.8 Out-of-home or permanent placement; progress reports and case](#)

## PROCEDURE

As part of the case planning process, the Family Case Manager (FCM) will:

1. Discuss the potential Permanency and Concurrent Plans or any changes to existing plans which are no longer in the child's best interest during a Child and Family Team (CFT) Meeting;

**Note:** If a CFT is not convened, a Case Conference must be held. See separate policy, [5.8 Developing the Case Plan](#).

2. Make reasonable efforts to implement the Permanency Plan;
3. Seek court approval of the Permanency Plan or any changes to existing Permanency Plan. See separate policy, [6.11 Permanency Hearing](#);
4. Have the Regional Permanency Team approve all decisions to change the Permanency Plan to Another Planned Permanent Living Arrangement (APPLA). A Permanency Plan of APPLA must be approved by the Regional Manager and be referred for a Permanency Round table.
5. Document for the court the reasonable efforts that have been made to implement the plan;
6. **[REVISED]** Ensure that within nine (9) months from the child's removal from the home or from the date of the original Disposition Decree, a finding of reasonable efforts to finalize the Permanency Plan is obtained in a court order; and
7. Update the court findings of Reasonable Efforts to finalize the Permanency Plan in the Indiana Child Welfare Information System.

The Supervisor will ensure that the Permanency Plan is documented in the [Case Plan \(SF 2956/DCS0046\)](#).

## PRACTICE GUIDANCE

**[NEW]** The CFT should participate in shared decision-making and strength-based approach to assisting with the development of the child's Permanency Plan. Formal and informal supports should be engaged to achieve the development of the Permanency Plan. DCS will hear and understand the family's voice and provide assistance to the family as the Permanency Plan is developed.

## FORMS AND TOOLS

1. [Case Plan \(SF 2956/DCS0046\)](#) - Available in the Indiana Child Welfare Information System
2. [Progress Report \(PermRptR1070108\)](#) - Available in the Indiana Child Welfare Information System

## RELATED INFORMATION

### **Concurrent Planning**

Concurrent Planning requires the FCM and CFT to plan and work towards both reunification and another permanency plan. The intent of Concurrent Planning is that both plans will be pursued simultaneously and aggressively. Concurrent Planning will be considered for all CHINS cases.

See separate policy, [5.15 Concurrent Planning](#) for more information on when to use Concurrent Planning.

### **Permanency Plan**

The Permanency Plan is the intended permanent or long-term arrangement for care and custody of the child. The Permanency Plan may include any of the following goals that the court considers most appropriate and consistent with the best interest of the child:

1. Reunification;
2. Adoption;
3. Guardianship;
4. Another Planned Permanent Living Arrangement (APPLA); or
5. Placement with a Fit and Willing Relative.

### **Reasonable Efforts to Preserve and Reunify Families**

In determining the extent to which reasonable efforts to reunify or preserve a family are appropriate, the child's health and safety are of paramount concern.

DCS will make Reasonable Efforts to preserve and reunify families as follows:

1. If a child has not been removed from the child's home, efforts to prevent or eliminate the need for removing the child from the child's home;
2. If a child has been removed from the child's home, efforts to make it possible for the child to return safely to the child's home as soon as possible; or
3. **[REVISED]** If a Permanency Plan has been approved, Reasonable Efforts to finalize the Permanency Plan are required. The court must issue a finding that DCS has made Reasonable Efforts to Finalize the Permanency Plan every nine (9) months. Reasonable Efforts to finalize a Permanency Plan are required to assure that a child continues to be eligible for federal funding to reimburse the costs of substitute care and DCS's administrative expenditures.

**Note:** The FCM should work to complete the Permanency Plan prior to the Permanency Hearing. However, the Permanency Plan may not always be complete prior to the hearing.

|                                                                                   |                                                                      |                                          |
|-----------------------------------------------------------------------------------|----------------------------------------------------------------------|------------------------------------------|
|  | <b>INDIANA DEPARTMENT OF CHILD SERVICES<br/>CHILD WELFARE MANUAL</b> |                                          |
|                                                                                   | <b>Chapter 6:</b> Court                                              | <b>Effective Date:</b> September 1, 2012 |
|                                                                                   | <b>Section 11:</b> Permanency Hearing                                | <b>Version:</b> 4                        |

## POLICY

The Indiana Department of Child Services (DCS) will attend and participate in a Permanency Hearing for a child:

1. Within 30 days after the court finds that reasonable efforts to reunify or preserve a child's family are not required;
2. **[REVISED]** Every nine (9) months after the date of the original Dispositional Decree or the date the Child in Need of Services (CHINS) was removed from the child's parent/guardian/custodian, whichever comes first; and
3. More often if ordered by the court.

DCS may request that the court hold a Permanency Hearing at any time.

DCS will present the child's views in the [Permanency Hearing Report](#), prepared for the Permanency Hearing. See Related Information for further details.

### Code References

1. [IC 31-34-21-7: Permanency hearing](#)
2. [IC 31-34-22: Reports required for reviewing dispositional decrees](#)
3. [IC 31-34-21-4: Notice of Case Review; testimony in periodic case review](#)
4. [IC 31-32-1-4: Hearing notices regarding CHINS or delinquent cases](#)

## PROCEDURE

**[REVISED]** The Family Case Manager (FCM) will:

1. Provide notice to all required parties. See separate policies, [6.4 Providing Notice](#);
2. Attend and participate in the Permanency Hearing for a child:
  - a. Within 30 days after the court finds that reasonable efforts to reunify or preserve a child's family are not required,
  - b. **[REVISED]** Every nine (9) months after the date of the original Dispositional Decree or the date the Child in Need of Services (CHINS) was removed from the child's parent, guardian, or custodian, whichever comes first, and
  - c. More often if ordered by the court.
3. Enter court hearing data in Indiana Child Welfare Information System including the courts findings related to Reasonable Efforts toward the Permanency Plan.

The FCM and Supervisor will ensure the child attends the hearing, unless the court has ordered otherwise.

The Supervisor will review and approve the [Case Plan](#) and the [Permanency Hearing Report](#) prepared for the Permanency Hearing.

## **PRACTICE GUIDANCE**

### **Factors to Discuss During the Child and Family Team Meeting (CFT) for the Permanency Hearing**

1. Identify objectives of the Dispositional Decree that have not been met,
2. Evaluate whether continuation of the decree with or without modification has a reasonable chance of success;
3. Determine whether it is in the child's best interest for the juvenile court to retain jurisdiction;
4. Determine whether responsibility for Placement and Care of the child should remain with DCS;
5. Identify procedural safeguards used by DCS to protect parental rights;
6. Determine whether an existing Permanency Plan will be modified, taking into account the recommendations of parties or other persons having a significant relationship with the child. See separate policies, [6.10 Permanency Plan](#), and [5.8 Developing a Case Plan](#);
7. Determine whether DCS has made Reasonable Efforts to finalize the Permanency Plan that is in effect; and
8. Determine the child's future status (e.g., whether the child is to return to the/their parent/guardian/custodian, continue in substitute care, be placed for adoption, be placed under another planned permanent living arrangement, with an appointed legal guardian, or placed with a fit and willing relative).

**Note:** The same factors considered during the Periodic Case Reviews are also considered during the Permanency Hearing.

### **[REVISED] Child's voice in the Permanency Plan**

Speak with the child regarding their views on leaving their current home and how they feel about reunification, adoption, guardianship, another planned permanent living arrangement, or placement with a fit and willing relative. Present the child's views in the Permanency Plan to the court. Although the child's views may be contrary to the court's recommendation for permanency, it is necessary to present those views. The child's views may also be expressed by an attorney for the child, the FCM or the GAL/CASA at the Permanency Hearing. There must be an indication that the child's view on the permanent placement has been sought and reported to the Court at each Permanency Hearing.

## **FORMS AND TOOLS**

1. [Progress Report](#)- available in the Indiana Child Welfare Information System
2. [Case Plan](#)- available in the Indiana Child Welfare Information System
3. [Permanency Hearing Report](#)- available in Indiana Child Welfare Information System

## **RELATED INFORMATION**

N/A

|                                                                                   |                                                                      |                                         |
|-----------------------------------------------------------------------------------|----------------------------------------------------------------------|-----------------------------------------|
|  | <b>INDIANA DEPARTMENT OF CHILD SERVICES<br/>CHILD WELFARE MANUAL</b> |                                         |
|                                                                                   | <b>Chapter 6:</b> Court                                              | <b>Effective Date:</b> December 1, 2012 |
|                                                                                   | <b>Section 12:</b> Involuntary Termination of Parental Rights (TPR)  | <b>Version:</b> 6                       |

## **POLICY [REVISED]**

The Indiana Department of Child Services (DCS) may consider petitioning the court for Involuntary Termination of Parental Rights (TPR) when the parent, guardian, or custodian has not made significant progress toward the primary plan within six (6) months of removal under the Dispositional Decree.

DCS will petition the court for Involuntary TPR when one (1) of the following occurs:

1. The court in a CHINS case has entered a finding that reasonable efforts for family preservation or reunification are not required; or
2. A child has been removed from the home and is in placement as a result of the child being an alleged CHINS for 15 of the most recent 22 months.

**Note:** The 15 months do not have to be continuous. DCS will not count trial home visits or runaway episodes when calculating the 15 months.

DCS will petition the court for Involuntary TPR when a Juvenile Delinquent/Juvenile Status Offender(JD/JS) child is IV-E eligible and was removed from the home no less than 15 of the most recent 22 months, unless the compelling reasons for not filing for TPR are documented in the child's case file;

**Note:** DCS will consult with the child's Probation Officer in all JD/JS cases and:

- a. Follow the recommendations of the Probation Officer regarding TPR, and
- b. Follow local inter-agency agreements regarding procedure.

In a TPR Fact-Finding, DCS must show:

1. The reasons for the child's removal or out-of-home placement will not be remedied, or the continuation of the parent-child relationship poses a threat to the well-being of the child;
2. Termination of Parental Rights is in the best interest of the child; and
3. There is a plan for the future care and treatment of the child.

### Code References

1. [42 U.S.C. 675\(5\)\(E\): Title IV-E Case Review System](#)
2. [45 CFR 1356.21 \(h\) \(4\)\(i\): Application of the Requirements for Filing a Petition](#)
3. [IC 31-34-21-5.6: No reasonable efforts](#)
4. [IC 31-35-2: Termination of Parent-Child Relationship Involving a Delinquent Child or a CHINS](#)

## PROCEDURE

The Family Case Manager (FCM) will:

1. Seek counsel from the Supervisor and the DCS Local Office Attorney regarding the decision to file for TPR;
2. Request input regarding the decision to seek TPR from the Child and Family Team (CFT);
3. Request input from the child's Guardian Ad Litem (GAL) or Court Appointed Special Advocate (CASA);
4. Assure that a diligent search for any missing parent was conducted prior to the filing of the TPR petition. See separate policy [5.6 Locating Absent Parents](#);
5. Begin to identify, recruit, process, and approve a qualified prospective adoptive family for the child. It is best practice to search for relatives who are willing and able to adopt the child;
6. Check the status of any pending paternity cases. See separate policy, [5.5 Alleged Fathers](#);
7. Assure the parent/guardian/custodian is provided with the [Advisement of Rights](#) prior to the hearing. See separate policy, [6.4 Providing Notice](#);
8. Coordinate witnesses for the TPR Hearing with the DCS Local Office Attorney; and
9. Attend the TPR Hearing.

**[REVISED]** If TPR is granted, the FCM will:

1. Enter the hearing and decree date of the petition in the Management Gateway for Indiana's Kids (MaGIK) System;
2. Complete the [Indiana Adoption Medical History Registry \(SF 13342\)](#).
3. Update the reason for lack of parental support and care in MaGIK to reflect that the parents' rights have been terminated; and
4. Set up a final "goodbye visit" between the child and the parents. If the child is seeing a therapist, attempt to arrange the visit so the therapist can be present.

The Supervisor will:

2. Assist the FCM in filing the TPR; and
3. Ensure that MaGIK is updated in a timely manner.

**[REVISED]** The DCS Local Office Attorney will file a petition for a TPR Hearing and provide proper notice regarding the TPR Hearing.

**[REVISED]** The Division Manager or DCS LOD will sign the [Consents to Adoption \(SF12582\)](#) form for cases where a prospective adoptive parent has been identified and the TPR process has concluded.

## PRACTICE GUIDANCE

### **[REVISED]** Adoption Consents

The [Consents to Adoption \(SF12582\)](#) form will be used for every prospective adoptive family approved to adopt a child in DCS care.

## FORMS AND TOOLS

### Advisement of Rights

## RELATED INFORMATION

### **Petition to TPR**

The petition must outline the circumstances that caused the petition to be filed. The court is required to commence the TPR hearing not more than 90 days after such a petition is filed and complete the hearing not more than 180 days after such petition is filed.

### **Calculating When to File a Petition for TPR**

The petition for TPR must be filed when the child has been removed from his or her home no less than 15 of the most recent 22 months. The individual filing the petition will:

1. Calculate the 15 out of the most recent 22 month period from the date the child was removed;
2. Use a cumulative method of calculation when a child experiences multiple exits from and entries into foster care during the 22 month period; and
3. Not include trial home visits or runaway episodes in calculating the 15 of the most recent 22 months since removal.

**Note:** If the 15 out of 22 is met but dismissal is appropriate, the TPR must still be filed and the information justifying dismissal must be submitted to the DCS Local Office Attorney with the request to file the TPR.

### **Dismissal by DCS**

A petition must be filed but may be dismissed on motion of DCS for one of the following reasons:

1. At the option of DCS, the child is being cared for by a parent or specified relative (e.g., step parent, grandparent, aunt, uncle, adult sibling or relative guardian);
2. DCS has documented in the Case Plan another compelling reason for determining that terminating the parent-child relationship would not be in the best interests of the child;
3. DCS has not provided the services to the family deemed necessary for the safe return of the child to the child's home within the time period stated in the Case Plan; or
4. DCS has not provided the services as stated in the Case Plan and the time for providing those services under the currently applicable plan has not expired.

**Note:** Do not start the clock over once the 15 of 22 has been met. Once the DCS obligation to file the TPR has been met and the dismissal has been granted, DCS will file a new TPR when the reason for dismissal no longer applies.

### **Court Denies Petition to TPR**

If the court denies the petition to TPR, reasonable efforts for reunification and preservation must begin again.

|                                                                                   |                                                              |                                  |
|-----------------------------------------------------------------------------------|--------------------------------------------------------------|----------------------------------|
|  | INDIANA DEPARTMENT OF CHILD SERVICES<br>CHILD WELFARE MANUAL |                                  |
|                                                                                   | Chapter 6: Court                                             | Effective Date: December 1, 2012 |
|                                                                                   | Section 13: Voluntary Termination of Parental Rights (TPR)   | Version: 4                       |

## POLICY **[REVISED]**

The Indiana Department of Child Services (DCS) will evaluate, on a case-by-case basis, whether it is in the best interest of the child to accept Voluntary Termination of Parental Rights (TPR) consents.

**[REVISED] Note:** Consent must not be taken from a mother of a newborn within the first 48 hours after birth. See Related Information for further details.

### Code References

[IC 31-35-1: Voluntary Termination of Parent-Child Relationship by Parents](#)

## PROCEDURE

**[REVISED]** The Family Case Manager (FCM) will:

1. Communicate with the parent to determine the basis of his or her request for Voluntary TPR;
2. Consult with the Supervisor, the Division Manager or DCS Local Office Director (LOD), and the DCS Local Office Attorney to determine if Voluntary TPR is in the best interest of the child;
3. Enter the hearing and decree date of the petition in the Management Gateway for Indiana's Kids (MaGIK);
4. Complete the [Indiana Adoption Medical History Registry \(SF 13342\)](#);
5. Update the reason for lack of parental support and care in MaGIK to reflect that the parent's rights have been terminated; and
6. Set up a final "goodbye visit" between the child and the parents. If the child is seeing a therapist, attempt to arrange the visit so the therapist can be present.

**[REVISED]** The Supervisor, Local Office Attorney, and LOD or Division Manager will discuss the specifics of the case with the FCM and arrive at a decision about the appropriateness of Voluntary TPR.

The Supervisor will:

1. Assist the FCM in preparing for the Voluntary TPR process; and
2. Ensure that the MaGIK System is updated in a timely manner.

**[REVISED]** The Division Manager or DCS LOD will sign the [Consents to Adoption \(SF12582\)](#) form after the TPR process has concluded.

**[REVISED]** The DCS Local Office Attorney will complete the appropriate paperwork for Voluntary TPR, including the [Voluntary Relinquishment of Parental Rights \(SF 12587/CW 1331A\)](#) and court petition.

## PRACTICE GUIDANCE

### **[NEW]** Voluntary TPR

A parent may voluntarily terminate their parental rights and sign adoption paperwork for a specific person to adopt prior to the TPR Hearing.

### **[NEW]** Adoption Consents

The [Consents to Adoption \(SF12582\)](#) form will be used for every prospective adoptive family approved to adopt a child in DCS care.

### **Consequences of Voluntary Termination of Parental Rights**

Consent for Voluntary Termination of Parental Rights is permanent. It is irrevocable and cannot be set aside unless the consent was obtained under fraud or duress or the parent is deemed incompetent. DCS is not permitted to make any promises of who will adopt the child. DCS should not discuss consent to adoption simultaneously with any post adoption contact agreements. For these reasons, seeking consent to adopt from the biological parent(s) may be preferable to seeking a voluntary termination of parental rights. Please consult with the DCS local office attorney.

Termination by the court means that all rights, powers, privileges, immunities, duties and obligations, including rights to custody, control, visitation or support relative to the relationship are permanently ended. Therefore, the consent of the parents is no longer required in order for the child to be adopted.

## FORMS AND TOOLS

[Voluntary Relinquishment of Parental Rights \(SF 12587/CW 1331A\)](#)

## RELATED INFORMATION

### **[REVISED]** Legal Rights of the Parent(s)

In accordance with IC 31-35-1-8 et seq. the Court will advise parents of their legal and constitutional rights and of the consequences of Voluntary TPR.