

	INDIANA DEPARTMENT OF CHILD SERVICES CHILD WELFARE MANUAL	
	Chapter 6: Court	Effective Date: September 1, 2020
	Section 2: Filing a Child in Need of Services (CHINS) Petition	Version: 5

STATEMENTS OF PURPOSE

The Indiana Department of Child Services (DCS) will initiate a [Child in Need of Services \(CHINS\)](#) case when there is sufficient reason to believe a child is a victim of Child Abuse and/or Neglect (CA/N).

The situation must meet one (1) or more of the CHINS definitions as set forth in the Indiana Code (IC) under [IC 31-34-1](#) 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](#)).

In order to initiate a CHINS case, DCS must file a [Request for Filing of Petition](#), with the [Preliminary Inquiry \(PI\)](#) attached. If the Court finds the [PI](#) contains probable cause that the child is a CHINS, the court will issue an order authorizing the filing of the CHINS Petition. Once the order authorizing the filing of the CHINS Petition has been issued, DCS may file the CHINS Petition (if the CHINS Petition was not filed with the [PI](#) and [Request for Filing of Petition](#)).

DCS will protect the confidentiality of information shared during court proceedings and the safety of a parent, guardian, or custodian 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, guardian, or custodian who is an alleged victim of domestic violence in a [sidebar](#);
2. Requesting that confidential information regarding the parent, guardian, or custodian who is an alleged victim of domestic violence not be read aloud in the court room;
3. Requesting a security escort for the parent, guardian, or custodian who is an alleged victim of domestic violence and/or alleged domestic violence offender in and out of the court room and to his or her 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: 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 the case management system Assessment Matrix supports the filing of a CHINS Petition (see policy [4.18 Initial Safety Assessment](#));
2. Conduct a diligent search if a child's parent is unable to be located (see policy [5.6 Locating Absent Parents](#));

3. Ensure a request is made for the court to make findings of Contrary to the Welfare or Best Interest (CTW/BI), Reasonable Efforts (RE) to Prevent Removal, and Responsibility for Placement and Care (PC) to DCS if the recommendation is that the child continue to remain out-of-home, or be removed from the home and placed in out-of-home care (see policy [15.1 Eligibility Overview for Field & Legal Staff](#));

Note: The FCM must be prepared to provide an update as to the progress toward completion of the [ADI](#), to the court at the time of the Detention/Initial Hearing (see 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 \(SF 49584\)](#) if the child was removed without a court order,
 - b. [Preliminary Report of Alleged Child Abuse or Neglect \(310\) \(SF 114\)](#),
 - c. [Assessment of Alleged Child Abuse or Neglect \(311\) \(SF 113\)](#) if the assessment is completed,
 - d. [PI](#), and
 - e. Any other required forms or notices located in the case management system.

Note: In cases where domestic violence has been identified, the FCM will ensure proper redaction of “a”-“e” above occurs. All redactions should be completed in conjunction with the DCS Staff Attorney.

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

The FCM Supervisor will:

1. Assist the FCM, whenever necessary, to complete the required CHINS documents;
2. Review the [PI](#) prior to submitting to the DCS Staff Attorney; 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.

The DCS Staff Attorney will:

1. Review the [PI](#) for legal sufficiency;
2. Prepare the [Request for Filing of Petition](#);
3. Attach the [PI](#) to the [Request for Filing of Petition](#) and file with the court;

Note: The [Request for Filing of Petition](#) (with the [PI](#) attached) should request the Initial/Detention Hearing occur within the appropriate timeframe (within 48 hours of removal, or within 10 days for in-home cases) if the hearing has not already been requested or scheduled.

4. Receive the [Order Authorizing Filing of CHINS Petition](#) from the Court, if the Court authorizes the filing;

5. Prepare the CHINS Petition, with specific pleadings for each Respondent (parent, guardian, or custodian), regarding each element of the applicable CHINS conditions located in [IC 31-34-1-1](#) through [IC 31-34-1-11](#);
6. Ensure that all court reports, forms, and notices are appropriately redacted, when applicable; and
7. File the CHINS Petition and any relevant motions in a timely manner.

PRACTICE GUIDANCE

Child in Need of Services (CHINS)

A child determined to be a CHINS who remains in his or her home is referred to as an “in-home CHINS.” A child determined to be a CHINS placed in out-of-home placement is referred to as an “out-of-home CHINS.”

FORMS AND TOOLS

1. [Taking Custody of a Child without Verbal Consent or Written Court Order: Description of Circumstances \(SF 49584\)](#) – Available in the case management system
2. [Preliminary Inquiry \(PI\)](#) - Available in the [CHINS Benchbook Forms](#)
3. [Preliminary Report of Alleged Child Abuse or Neglect \(311\) \(SF 114\)](#) – Available in the case management system
4. [Assessment of Alleged Child Abuse or Neglect \(310\) \(SF 113\)](#) – Available in the case management system
5. [Tool 6.B – Statutory Definition of CHINS](#)
6. [Affidavit of Diligent Inquiry \(ADI\) \(SF 54778\)](#) – Available in the case management system
7. [Request for Filing of Petition](#)- Available in the [CHINS Benchbook Forms](#)
8. [Order Authorizing Filing of CHINS Petition](#)- Available in the [CHINS Benchbook Forms](#)

RELATED INFORMATION

Coercive Intervention

Coercive intervention is an action or warning of possible action to compel a parent, guardian, or custodian to act against their own wishes as it relates to their child.

Rebuttable Presumption

A Rebuttable Presumption is a conclusion as to the existence or nonexistence of a fact that a judge must draw when certain evidence has been introduced and admitted as true in a lawsuit but that can be contradicted by evidence to the contrary.

Affidavit of Diligent Inquiry (ADI)

An ADI is a sworn statement that the individual made reasonable efforts to locate someone.

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: A standard of proof requiring the existence of a fact “to be highly probable.” This is the standard of proof used in Termination of Parental Rights cases.

Sidebar

A sidebar is a conversation held outside the hearing of the other persons present in the court. It usually includes the attorneys for the parties, Guardian ad Litem (GAL)/Court Appointed Special Advocate (CASA), the judge, and the court reporter.