

	INDIANA DEPARTMENT OF CHILD SERVICES CHILD WELFARE MANUAL	
	Chapter 6: Court	Effective Date: July 1, 2021
	Section 02: Filing a Child in Need of Services (CHINS) Petition	Version: 6

POLICY OVERVIEW

A Child in Need of Services (CHINS) case will be initiated when there is sufficient reason to believe a child is a victim of Child Abuse and/or Neglect (CA/N), meets the statutory definition of one (1) or more CHINS definitions (see policy 3.08 Statutory Definition of CHINS), and the coercive intervention of the court is necessary.

PROCEDURE

In order to initiate a CHINS case, the Department of Child Services (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).

The Family Case Manager (FCM) will:

1. Ensure the Casebook Assessment Matrix supports the filing of a CHINS Petition (see policy 4.18 Establishing Initial Child Safety);
2. Conduct a diligent search if a child's parent is unable to be located (see policy 5.06 Locating Absent Parents);

Note: At the time of the Detention/Initial Hearing, the FCM must be prepared to provide an update to the court as to the progress toward completion of the ADI.

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 15.01 Title IV-E Eligibility Overview for Field & Legal Staff);
4. Ensure the following forms are completed:
 - a. Taking Custody of a Child without Verbal Consent or Written Court Order: Description of Circumstances if the child was removed without a court order,
 - b. Preliminary Report of Alleged Child Abuse or Neglect (310),
 - c. Assessment of Alleged Child Abuse or Neglect (311) if the assessment is completed,
 - d. PI, and
 - e. Any other required forms or notices located in 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 6.04 Providing Notice of Hearings);
6. Ask if the parent, guardian, custodian or the child needs a reasonable accommodation due to a disability;
7. 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 (see policy 2.30 Domestic Violence for additional information); and
8. 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 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.

RELEVANT INFORMATION

Definitions

Affidavit of Diligent Inquiry (ADI)

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

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.

In-Home Child in Need of Services (CHINS)

A child determined to be a CHINS who remains in the child's home is referred to as an "In-Home CHINS."

Out-of-Home Child in Need of Services (CHINS)

A child determined to be a CHINS placed in out-of-home placement is referred to as an “Out-of-Home CHINS.”

Preliminary Inquiry (PI)

A PI is a written report prepared by DCS, which includes the child’s background, current status, and school performance. The report relates the facts and circumstances that establish the reason for DCS involvement in both CHINS and Informal Adjustment (IA) cases.

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.

Sidebar

A sidebar is a conversation held outside of 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.

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.

Forms and Tools

- [Affidavit of Diligent Inquiry \(ADI\) \(SF 54778\)](#)
- Assessment of Alleged Child Abuse or Neglect (310) (SF 113) – available in the case management system
- Order Authorizing Filing of CHINS Petition – available in the case management system
- Preliminary Inquiry (PI) – available in the case management system
- Preliminary Report of Alleged Child Abuse or Neglect (310) (SF 114) – available in the case management system
- Request for Filing of Petition – available in the case management system
- [Taking Custody of a Child without Verbal Consent or Written Court Order: Description of Circumstances \(SF 49584\)](#)

Related Policies

- [2.30 Domestic Violence \(DV\)](#)
- [3.08 Statutory Definition of CA/N](#)
- [4.18 Establishing Initial Child Safety](#)
- [5.06 Locating Absent Parents](#)
- [6.04 Providing Notice of Hearings](#)
- [15.01 Title IV-E Eligibility Overview for Field & Legal Staff](#)

LEGAL REFERENCES

- [IC 31-10-2-3: Rights of persons with a disability](#)
- [IC 31-17-2-8.1: "Disability"; custody](#)
- [IC 31-34-1: Chapter 1. Circumstances Under Which a Child Is a Child in Need of Services](#)
- [IC 31-34-9: Chapter 9. Filing of Petition Alleging That Child Is Child In Need of Services](#)
- [42 USC 12102: Definition of disability](#)