**CHINS Caregiver Handbook**

**A Guide for Indiana Caregivers**

**on the Child In Need Of Services and Termination of Parental Rights Process**

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**About the Agency**

Kids’ Voice of Indiana

Kids’ Voice of Indiana is a 501(c)3 organization which has been committed for more than twenty-five years to promoting, protecting, and preserving the rights and best interest of children across the state of Indiana through its three Programs, the Derelle Watson-Duvall Children’s Law Center of Indiana, the Bette J. Dick GAL for Kids Program, and the Jenny Miller Safe Child Parenting Time Program.

The Indiana law discussed in this Handbook includes new legislation effective as of July 1, 2018. Please note that the law frequently changes due to the published opinions of the Indiana Supreme and Appellate Courts and legislation enacted annually by the Indiana General Assembly.

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**The CHINS Caregivers’ Handbook**

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Table of Contents

[CHINS BASICS 5](#_Toc531262078)

[GOING TO COURT 12](#_Toc531262079)

[PERMANENCY 15](#_Toc531262080)

[FREQUENTLY ASKED QUESTIONS 18](#_Toc531262081)

# CHINS BASICS

**What is a “CHINS”?**

A “CHINS” is a Child in Need of Services. An Indiana statute defines the term as a child who is experiencing abuse or neglect, and the situation needs the coercive intervention of the court to be remedied. IC 31-34-1.

**Who decides if a child is a CHINS?**

A judge, who has heard the evidence presented by DCS and the other parties in a case.

Who else is involved in a CHINS case?

|  |  |
| --- | --- |
| Department of Child Services (DCS) | Governmental agency charged with ensuring the safety of children in Indiana |
| Family Case Manager (FCM) | Person at DCS who is in charge of managing the child’s case |
| DCS Attorney | The attorney for DCS; will speak on behalf of DCS and the FCM in court |
| Public Defender | Parents who cannot afford an attorney will be appointed one at no charge |
| Guardian Ad Litem (GAL) /Court Appointed Special Advocate (CASA) | Person appointed by the court to represent the best interests of a child involved in litigation |
| Child’s attorney | The attorney for the child, who will speak on behalf of what the child wants – not appointed in every case |
| Relative caregiver | A blood relative who is caring for a child who is not their own |
| Kinship caregiver | A friend of the family who is caring for a child who is not their own |
| Foster caregiver | A licensed family placement for a child who cannot safely be in his/her home |
| Therapeutic foster caregiver | A foster care provider who has additional training to support children with special needs |

**How does a child become a CHINS?**

First, a report of child abuse or neglect is made to DCS, either through law enforcement or the Child Abuse/Neglect Hotline (1-800-800-5556). Each report is called a 310, because that is the state form that is used. Each report is screened. If a report does not contain enough information to investigate or doesn’t sound like abuse or neglect, it is screened out. Otherwise, a 310 is investigated. IC 31-33-7-4.

After investigation, a 310 is deemed “substantiated” or “unsubstantiated”. These terms do not mean that abuse or neglected definitely did or did not happen. Instead, “substantiated” simply means the “facts obtained during an assessment of the report provide a preponderance of evidence that child abuse or neglect has occurred.” IC 31-9-2-123. “Unsubstantiated” means the “facts obtained during an assessment of the report provide credible evidence that child abuse or neglect has not occurred.” IC 31-9-2-132**.**

**What does “child abuse or neglect” actually mean?**

The Indiana statutory definition of a “victim of child abuse or neglect” is a child who falls within one or more of the CHINS definitions as described in IC 31-34-1.

**What if I report child abuse or neglect and DCS doesn’t substantiate?**

In Indiana, a failure to report child abuse or neglect is a crime. It is a Class B misdemeanor. So, people who report child abuse or neglect in good faith will not be in trouble for doing so. There is immunity under the law for people who are trying to make a report of child abuse or neglect in order to protect a child they believe is somehow being endangered. However, there is an exception for people who make child abuse reports for malicious or bad faith reasons.

**What happens to an unsubstantiated report?**

DCS will close the case, but a record of the 310 and investigation will be kept.

**What happens to a substantiated report?**

The alleged perpetrator is added to the Child Abuse Registry.

A report is prepared on a 311 (named after the state form) and the case is assigned to a DCS case manager. This person is different from the DCS investigator who decided whether or not to substantiate.

**What is an informal adjustment?**

If DCS decides there is grounds for an abuse or neglect allegation, but the children are able to be in the home without the risk of imminent harm, the DCS case manager could work with the family on an informal adjustment. This requires the parents to sign a contract with DCS agreeing to do certain things to keep their children safe. The informal adjustment is monitored by the Court, and DCS and the parents report back about how the informal adjustment is going. If the informal adjustment fails, then it is likely that a CHINS petition will be filed.

**What is a CHINS petition?**

If DCS believes the children are not able to stay in their home safely, or an informal adjustment is not appropriate, DCS will file a CHINS petition with the court stating that the coercive intervention of the Court is necessary for the children’s safety. This petition must be approved and ordered by a judge before it takes effect. A GAL/CASA will be appointed to the children once the CHINS petition is filed and ordered. Once the petition has been reviewed and ordered by a judge, DCS may remove the children from their home.

**When do children get placed into foster care?**

Children are only removed from their homes after a CHINS petition has been filed and approved by a judge. If a child is removed from their home prior to this due to imminent danger, that child will be held somewhere safe until after the CHINS petition is authorized.

Once the CHINS petition has been ordered by a judge, DCS can start looking for placements. They are required to consider placements in the following order:

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| De Facto Custodian | A person who has been the primary caregiver and financial supporter of a child for six months if the child is under three years old or for one year if the child is over three years old. |
| Relative Care | An adult who is related to the child (e.g., a grandparent, aunt, uncle, adult sibling). |
| Kinship Care | A person who is not related to the child yet has a very close relationship to the child or family. |
| Foster Care | State or county-licensed adults who provide a temporary home and everyday nurturing and support for children who have been removed from their homes. |
| Therapeutic Foster Care | Foster care providers who are trained and licensed to provide care to children with special needs or behaviors. |
| Residential Placement | A home or facility that houses many children in need of care. Some address specific needs of the child, like mental health or rehabilitation. |

**How does a child’s placement get changed?**

DCS will recommend to the court a change in placement, if:

1. There is substantiated child abuse or neglect in the placement;

2. Appropriate placement for the child with his or her siblings becomes available (unless placement with siblings is not in the best interest of one or more of the children);

3. An appropriate relative caregiver is identified and placement with the relative caregiver is in the best interest of the child;

4. An in-home trial visit has not worked out;

5. A pre-adoptive home has been identified and determined to be in the best interest of the child; or

6. The child needs a more or less restrictive placement.

**Will DCS tell me ahead of time that a child will be moved?**

If DCS wants to change a child’s out-of-home placement and the child has been in that placement for less than a year, DCS must give the caregiver and child 14 days of advance notice of the change in placement, and update the court within 10 days of the change taking place.

If DCS wants to change a child’s out-of-home placement and the child has been in that placement for more than a year, DCS must notify the caregiver and child and file a motion in court prior to changing the placement. If the caregiver opposes the change in placement, a hearing must be held to determine the best interests of the child. IC 31-34-23-3.

In either instance, in the case of an emergency DCS is authorized to remove a child immediately and file an emergency motion for change in placement with the court.

**Can I ask that a child be removed from my care?**

Yes, but you must give DCS 14 days of notice if you are no longer willing or able to care for a child.

**How does someone become a licensed foster care provider?**

Foster parents are licensed by DCS, and the requirements for licensure are that prospective parents must:

* Be at least 21 years of age
* Pass a criminal history and background check, including a fingerprint-based national history
* Demonstrate financial stability
* Own or rent a home that meets physical safety standards (i.e., fire extinguishers, adequate bedroom space, reliable transportation)
* Provide medical statements from a physician for all household members
* Successfully complete pre-service training requirements, and First Aid, CPR, and Universal Precautions training
* Provide positive personal reference statements
* Complete a home study
* Complete all required forms.

**How much are foster parents paid?**

Foster parents are paid a daily rate for each child in their care, called a “per diem”. The rates vary based on the child’s age and needs.

**Can a relative or kinship caregiver receive a per diem?**

No, unless they become licensed caregivers through DCS. However, relative or kinship caregivers can receive other government benefits to support the child.

# GOING TO COURT

**Can I attend court hearings?**

Yes, you can attend hearings for the children in your care. When you enter the courtroom, take a seat in the back rows and identify yourself to the judge if he/she asks your relationship to the case. You often may not speak in court apart from your introduction; however, the judge may also ask you questions or for your input.

**Should I bring the children to court?**

That depends on the child and the situation. Children over the age of 14 are encouraged to attend court and participate in their cases, because they are old enough that their thoughts warrant strong consideration. Under the age of 14, children are welcome but not required to attend. If a topic in court is something the children should not hear, the judge will excuse the children while the topic is discussed.

**Do I need a lawyer?**

If you are not a party to the case, you do not need a lawyer. Some caregivers retain one anyway, so that they have a legal resource on whom they can rely.

**Can I speak in court if I want to?**

Sometimes. Caregivers are allowed to address the court in certain specified hearings. These hearings are usually about the child’s behavior, adjustment, health, and school issues. Caregivers may also voice an opinion about placement and services for the child.

Caregivers are allowed to actively participate in case review and permanency hearings. They have the right to:

* be heard and make recommendations;
* submit a written statement to the Court, which may be made a part of the Court record;
* present oral testimony to the Court;
* cross examine any of the witnesses at the hearing;
* present a written statement, and the rights to present oral testimony and cross-examine witnesses.

**Are court hearings open to the public?**

No, they are not. These are closed proceedings, and the only people allowed in the courtroom are people involved with the case and other professionals with good cause to attend.

**Who should I talk to about concerns I have about the child?**

Foster parents are allowed to provide written testimony about the child to the judge. DCS has a form that foster parents can use, but foster parents can use another format if they choose.

Other caregivers should be sure to contact the GAL/CASA, who advocates for the child’s best interest in court. Another good option is the DCS attorney or case manager.

**What if I think someone is lying in court?**

At the close of the hearing, be sure to voice your concerns to the GAL/CASA or the DCS case manager and attorney. Do not say anything while the court is conducting its proceeding, unless you are specifically asked. Court decorum requires silence unless you are one of the parties, and even then, they have to wait for their turn.

**Can I get copies of the DCS reports they talk about in court?**

Sometimes. Caregivers are not one of the required recipients for predispositional reports, yet caregivers are to be given a copy of the case review and permanency reports.

**Can I be one of the parties to the case?**

Perhaps. A foster parent, long-term foster parent, or person who has been a foster parent may petition to intervene as a party, and the court may rule in favor or against the petition. A hearing is not required on the petition if if the case is still a CHINS, and must be granted if the court believes it is in the best interest of the child.

Once a termination of parental rights petition has begun, petitions to intervene by long-term foster parents are required to have a hearing.

For caregivers who do not qualify as foster parents, the Indiana Rules of Trial Procedure permit a third party to petition the court to intervene as an interested party for case review hearings. If a petition to intervene is granted by the Court, the intervenors become legal parties and may be represented by an attorney at the case review hearing. The attorney can file legal documents on behalf of the foster parents and relative caretakers, and can receive and respond to legal documents filed by other parties.

# PERMANENCY

**What does permanency mean?**

A permanency hearing is required to be held:

* within thirty days of a Court ruling that reasonable efforts to reunify or preserve the child’s family are not required;
* every twelve months after the child has been removed from parents or every twelve months from the date of the dispositional decree, whichever occurred first; or
* more often if ordered by the Court. IC 31-34-21-7.

At this hearing, the Court will address the long-term plan for a child whose reunification with parents now seems unlikely.

**What are the permanency options?**

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| Termination of Parental Rights (TPR) | Severing the parental rights of the child’s parents; often, an adoptive family has been identified. |
| Adoption | A legal proceeding that officially makes a child part of a new family – usually after a parent consents to adoption or after a TPR. |
| Guardianship | A legal arrangement of custody where a parent no longer has the legal responsibility for their child, yet the parental relationship stays intact. |
| Another Planned Permanent Living Arrangement (APPLA) | For older youth who are likely to be successful with independent living. |

**When is the right time to speak up if I want to adopt a child in my care?**

If you believe you want to adopt a child in your care, you should tell the DCS case manager. The case manager can review the process with you and help you understand all the intricacies of adoption.

**Adoption costs a lot. Can I get financial help?**

Sometimes. In Indiana, adoption subsidies and other assistance are available for children who have been determined unable to return home by a juvenile court or DCS; who are available for adoption due to parental consent, TPR proceedings, or other availability; and are

* children over two years of age, or
* children under two if they are being adopted as part of a sibling group with a child over two years of age, or
* children with special medical or disability needs.

In Indiana, there is an additional requirement that assistance is only available after reasonable efforts have been made to place a child without adoption assistance. However, that requirement can be waived if it is against the child’s best interest to do so.

**Will there be any financial assistance after the adoption is finalized?**

Yes, Indiana provides adoption assistance to families after adoption if the child qualifies under the same criteria as above. Children remain eligible for Medicaid coverage.

Assistance ends when the child turns eighteen. The age is raised to twenty-one upon a determination that a child has a medical condition or disability that requires continued support.

**Will there be any services or supports for the children after adoption?**

Parents should contact their local Department of Child Services office or their adoption services contact for information regarding process, eligibility, availability, and duration of services. There may be more or fewer services available in certain areas of Indiana, but available services include things like:

* respite care,
* self-help support groups or adoptive parent buddy system,
* identification of counseling and psychological resources that are sensitive to the issues surrounding adoption,
* informational and training sessions on effectively parenting children with special needs, and the
* Hoosier Heartland Adoption Newsletter.

# FREQUENTLY ASKED QUESTIONS

**How do I enroll a child in school?**

The paperwork placing the child in your care from DCS should be enough for the school to enroll a child.

**Does the child have medical insurance?**

Most children who are wards of DCS are all eligible for Medicaid, with a few narrow exceptions. The DCS case manager should be able to assist you with this issue, and you should contact them with questions.

**Can I consent to medical procedures for a child?**

You may consent to routine medical appointments and procedures for a child, but any illnesses or injuries should be reported to the DCS case manager. The Court must be told and approve of some interventions.

**Can I request a special education evaluation or change in services for a child?**

Yes. Article 7, Indiana’s law governing special education, allows a “parent” to request these things, and defines a “parent” as:

* a biological or adoptive parent whose rights have not been terminated or restricted
* a guardian, permanent or temporary
* a foster parent
* an individual with legal custody or acting in place of a parent, who accepts responsibility for the child and lives with the child
* an educational surrogate parent

A caregiver clearly falls into this definition. However, if a caregiver and a biological parent disagree about special education qualification or placement, it may be necessary to have the Court specifically order who is the legal educational decisionmaker in a child’s case.

**Can I claim children in my care as dependents on my tax return?**

Yes, if the child was officially placed with you, under 19 years, lived with you for over half the year, and is not filing a joint return. If a biological parent also claims the child as a dependent your claim may be disallowed – it is helpful to have paperwork proving how much time the child lived with you to support your claim of dependence.

**Can I travel with a child in my care?**

You should inform the DCS case manager as soon as you know about plans to travel so DCS can get the proper paperwork and approval arranged. Your travel with the child could be denied if a biological parent has an objection, the Court objects, or there is a conflict in scheduling.

**Can I take a child to church with me?**

Yes, if the child is willing to go. If the child is of a different religion or culture from you and does not wish to go, the child should be offered the opportunity to attend services or engage in their own beliefs.

**Can children share a bedroom? What about a bed?**

Children should have their own bed, but may share a bedroom with same gendered foster children, depending on age and behavior. Each child should have 50 square feet of living space.