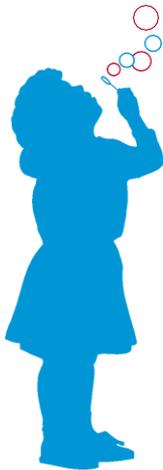


In the Child's Best Interest



A practical guide to
assist parents through
the *Child In Need Of
Services* process

Published by

In The Child's Best Interest:

A practical guide to assist parents through
the *Child In Need of Services* process

This booklet was created to assist parents as they prepare to go into the courtroom with their child or children. It was intended to answer some of the questions that may come up before or during the court hearing process. Originally developed by the IARCA Adoption & Safe Families Act Task Force, the booklet provides answers to questions that many parents have throughout these proceedings. It was also developed in response to the Adoption and Safe Families Act of 1997, an Act which was signed into law for the purpose of improving the safety of children, to promote adoption, and other permanency plans for children, and to support families.

Legal Notice: *This booklet has been written based upon current Indiana and federal statutes related to abused and neglected children, and other related types of family law cases.*

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Indiana Association of Resources and Child Advocacy
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Indiana Association of Resources and Child Advocacy
5519 E. 82nd Street, Suite A
Indianapolis, IN 46250
Phone 317/849-8497
Website www.IARCA.org

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Indiana Association of Resources and Child Advocacy

Indiana Association of Resources and Child Advocacy is a non-profit association committed to strengthening services available to the children, youth, and families of Indiana. As a solid advocacy voice for children, IARCA promotes cooperation, communication, development and mutual support among organizations and systems providing services to children, youth, and their families, and advocates for the establishment and maintenance of the highest quality, most effective, and most appropriate services possible to children, youth, and families.

The IARCA Institute for Excellence is a public benefit corporation that was organized and operated exclusively to benefit, perform, and carry out the exclusively public, charitable, scientific, educational, and other purposes of Indiana Association of Resources and Child Advocacy. In carrying out such responsibilities, the Institute engages in activities that provide training opportunities and related services that enhance and improve the ability of members of IARCA, the supported organization, to serve the needs of women, children, and families; assist IARCA in raising funds and support that can be used to accomplish the association's charitable and educational purposes related to the needs of women, children, and families; and accomplishing such goals that are consistent with the purposes set forth by Indiana Association of Resources and Child Advocacy.

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Cathleen Graham

Lori Westropp

Alfreda Singleton-Smith

Roberta Henry-Baker

Kellie Safford

Scott Fogo

Doug Selfe

Jane Dobbins

Sallie Nye

Anita Dygert-Gearheart

Legal Consultant for 2018 Revised Materials

Derelle Watson-Duvall, JD

Derelle Watson-Duvall graduated cum laude from DePauw University and received her law degree from Indiana University Law School in Indianapolis. She has practiced law for thirty-nine years. She is a former child welfare caseworker and served as counsel for the Marion County Office of Family and Children for sixteen years. She has represented adoption and guardianship petitioners in private practice.

She has represented the programs of Kids' Voice of Indiana, including the Children's Law Center of Indiana, the Jenny Miller Safe Child Parenting Time Program and the Bette J. Dick GAL for Kids Program for twenty-three years. She has represented children's best interests in civil and CHINS cases since 1994. She is a member of the Indiana Children's Justice Task Force. She co-authored the 1988 CHINS Deskbook, Updates, Supplements, Primer II and the CHINS Deskbook 2001 with Frances G. Hill. She co-authored the 2007 Supplement and the 2009 Cumulative Supplement to the CHINS Deskbook 2001 with Saundria Bordone.

She served as legal consultant in 2009 for the IARCCA Parent Guide and Professional Guide In the Child's Best Interest. She received the Viola Taliaferro Award from the Civil Rights of Children Committee of the Indiana State Bar Association in 1998. She received the ISBA Women in the Law Recognition Award in 2004 from the Indiana State Bar Association. She received the Distinguished Barrister Award in 2011. She and Katherine Meger Kelsey recently co-authored the CHINS and Family Law Deskbook.

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INTRODUCTION

This booklet has been written to help parents who are in contact with the Department of Child Services (DCS) about their child's or children's care and treatment. Most often this has occurred through a report of child abuse or neglect. This booklet should help parents to better understand what is happening to their child, since this can be a very confusing and frustrating time for both parents and children. This booklet also explains what parents can do to improve the situation for themselves and their children.

If you are a parent of a child, the best way to use this booklet is to find the section that best addresses any question you have. Ask your family case manager, your social worker, or your attorney for more help with your questions or with these answers. This booklet is only a starting point for what you might need to know if your child is believed to be abused or neglected or is involved in the Child in Need of Services (CHINS) process.

This booklet has a second purpose: educating professionals who are working with you or your child or children. With reliable information, these caring providers can make the best use of their time with you and your child or children to improve your family's situation and to assist you in making good decisions about your child's future.

RIGHTS AND RESPONSIBILITIES

What rights do we as parents have?

The Department of Child Services will give you a sheet of paper that states your legal rights. The family case manager must give you this statement of your rights when your child is removed from your home or when a Child in Need of Services petition is filed with the court, whichever happens first. The rights listed below can be found in the Indiana Code 31-34-4-6, except where another Indiana Code cite is listed. Your rights as a parent include:

- 1. The right to have a detention hearing held by a court** within 48 hours after the child's removal from your home. The 48 hours does not include legal holidays and weekends. At this hearing, you may request that your child be returned to you.
- 2. The right to hire an attorney or request to be represented by a free court appointed attorney.** If you request an attorney, the Court may appoint a free attorney to represent you if the court finds that you cannot afford an attorney.
- 3. The right to cross-examine witnesses.** You or your attorney may ask questions of the people who are testifying at the court hearing.
- 4. The right to present evidence on your own behalf.** Any information or evidence that you have about the allegations of child abuse or neglect should be given to your attorney to present in court. You also have the right to present your information on your own, if you do not have an attorney to represent you. You have the right to obtain witnesses by subpoena under Indiana Code 31-32-2-3.
- 5. The right to not make statements that incriminate you.** "Incriminate" means that the things you say might be used to prove that you were involved in a crime or that you were responsible for the abuse or neglect of your child or other wrongful act. Incriminating statements may be used in a court hearing on a petition that alleges that your child is a Child in Need of Services.

6. **The right to request to have your child’s case reviewed by the county Child Protection Team.** The Child Protection Team is a group of persons from the community who advise the Department of Child Services. The Child Protection Team may review any complaints regarding child abuse and neglect cases that are brought by a person or an agency.
7. **The right to be advised that a petition to terminate the parent-child relationship must be filed whenever a child has been removed from the child’s parent and has been under the supervision of the Department of Child Services for at least fifteen (15) months of the most recent twenty-two (22) months.** This means that you as a parent have only fifteen months after your child’s removal to prove to the court that your child should be returned to you before the court has to look at whether your rights to the child should be ended. If your parent-child relationship is terminated by the court, then your child will become available for adoption without your consent.
8. **The right to request a copy of the report and other material that is a part of the child protection services investigation regarding your child.** You or your attorney can request these documents but the identity of the person who reported the child abuse or neglect and the identity of other appropriate individuals are protected under Indiana law from being released to you. These rights are found in Indiana Code 31-33- 18-2.
9. **The right to confidentiality of your child’s case information** under Indiana law, with exceptions spelled out under Indiana Code 31-33-18.
10. **The right to receive services,** based on the Department of Child Services assessment and recommendations that are ordered by the juvenile court.

You, as the parent, also have certain rights called “procedural safeguards” under federal law. These include:

1. **Right to services and assistance** to prevent the removal of your child from your home, except where the child is in such danger that there is no opportunity to provide such services before removing the child from your home;
2. **Right to participate in case planning and Child and Family Team Meetings** for your child;
3. **Right to notice that there is a change in the place where your child is residing**;
4. **Right to enforcement of a court order for visitation with your child**, with the understanding that the court makes its order based on what is appropriate and in the best interests of your child;
5. **Right to notice of any change that affects your visitation privileges** with your child;
6. **Right to participate in services related to your child and to receive services** to address the problems that led to your child’s removal from your home; and
7. **Right to a copy of court reports, or a summary of such reports**, that are filed by the Department of Child Services, Court Appointed Special Advocate or Guardian ad Litem regarding your child. You may also receive copies of reports from service providers that are attached to the DCS report, if those reports are about you as the child’s parent.

For a full understanding of your rights, you should ask for an attorney to represent you and explain your rights to you. You may also ask the Judge to explain your rights.

What are my responsibilities as a parent?

When your child is removed from your home or if your child is found by a court to be a Child in Need of Services, your rights as the child’s parent do not end. You also continue to have responsibilities as your child’s parent. Among these are:

- 1. To provide information about your child's needs,** especially medical and school-related needs. This information will help the foster parent or child care workers and the family case manager to take the best care of your child while your child is out of your home. You should also tell the case manager and the judge if your child is an Indian (Native American) child or if the child's parent is a member of the U.S. military, because special procedures apply.
- 2. To visit your child** according to the case plan and court orders. Your child needs to know that you still care about him or her and that you want to see him or her as much as possible. It is very hard on a child to be separated from a parent, and visits help the child to stay in touch with you. If you have an emergency that means that you will miss a visit with your child, be sure to contact the family case manager to let him or her know the reason that you are unable to visit. Be sure to call or write your child so that the child knows why you could not attend that particular visit.
- 3. To be involved in developing the case plan** for your child. By being involved, you give your own viewpoint of the problems and your own interest in your child's future. Even if you disagree with the case plan, you should continue to be involved. Your case manager needs to hear from you about what you believe the problems are and how your situation at home can best be changed for the safety and well-being of your child. Your case manager also needs to know if there are other family members who can provide a home for your child while the child has to be separated from you.
- 4. To attend and participate in scheduled Child and Family Team Meetings,** a team will focus on your family's strengths and underlying needs in order to assist your family in identifying what services, options or support will be most successful to help you achieve your goals. Child and Family Team Meetings (CFTM) are voluntary but have proven to be the best option for all parties involved to obtain the family's input into the plan and to hear the voice of the family. Work

with your family case manager to select your team members, your goals for your plan and how and when this meeting should be scheduled.

5. **To pay for services as ordered by the court.** By paying for these services, you will show the court that you can provide for your child's needs and that you can be trusted with the financial responsibility that goes along with being a parent. If you disagree with the amount that the court orders you to pay, you should let your attorney and the Judge know that. Be sure that the Judge has the correct information on your income and ability to pay for services by asking DCS for a copy of what was given to the Judge. Speak up about anything that is not reported correctly to the Judge.
6. **To let the DCS family case manager know when there are changes in your life that affect you and your child.** This includes when you move or change addresses, if your job changes, if the number of people in your household changes, and if your marital status changes. The family case manager needs to know how to contact you and what your home and work situations are, so that she or he can continue to work with you to have the problems which led to your child's removal corrected.
7. **To take advantage of the services that are provided to you** in order to correct the problems that led to the concern about your child's safety and your child's removal from your home. Keep your own written notes about the services you have received, the dates of those services, and the name and telephone number of the person who provided you with these services.
8. **To let the DCS family case manager know when you complete a requirement** that is a part of the case plan. This information will help the family case manager to keep track of your progress as well as to make necessary changes in the case plan.
9. **To attend court hearings about your child's case** and to be prepared for the hearing. It is best to talk with your attorney before the court hearing to discuss what is happening and what you want to

say in court. The Judge needs to hear from you about what you believe the problems are and how you think the situation can be corrected so that your child can be returned safely to your home.

10. **To ask the family case manager for information on your child's progress** while the child is in foster care. This information should be provided to you. If you are not satisfied with the information that is being given to you, or if you do not hear from the family case manager on a regular basis, ask for more information on how your child is doing.
11. **To cooperate as much as possible with the family case manager** so that your child can either be returned quickly to you or another plan be developed for your child with your input and wishes taken into account

What are my child's rights?

Your child has certain rights under the proceedings for a Child in Need of Services. The first of these **is to have a special person appointed to represent your child's best interests in court.** This person is called a Court Appointed Special Advocate (CASA) or Guardian ad Litem. A CASA or a Guardian ad Litem may be a volunteer from the community or may be an attorney. This person is responsible for speaking for the child and representing the child's best interests in court hearings. This person will talk to the child and monitor the child's situation. The Judge is required to appoint a CASA or Guardian ad Litem in all Children in Need of Services cases.

Your child also has the following rights, called procedural safeguards, under the federal and state law and under DCS policy:

1. **To be placed in the most family-like and least restrictive setting that is close to the parent's home;**
2. **To be placed in a setting that meets the child's best interests and special needs;**
3. **To be placed in a setting that meets certain standards for the safety of the child;**
4. **To have an individual Child and Family Team Meeting depending on the age of the child and the permanency plan**

that has been established;

- 5. To have an individualized case plan** (see case planning section for details); and,
- 6. To have a court oversee the actions of the Department of Child Services to be sure that the actions are taken in the child's best interests.**

Does my child have any responsibilities?

Your child may be ordered by the court to participate in certain services that the court determines are necessary for the child's best interests and special needs. If this is what happens with your child, the child must participate in those services. The court will expect regular reports on the child's progress.

Your child may be old enough to participate in the development of his or her case plan and to participate in Child and Family Team Meetings to talk about his or her own needs and wishes. If your child is old enough to speak his or her own mind, then your child should be involved in these activities, to the best of his or her ability. Your child's CASA/GAL may participate in case planning on your child's behalf. Your child may select a representative to advocate on the development of the case plan if your child is 14 or older.

Your child may also be required to testify in court as to what the child experienced, heard or saw. In that case, your child is required to tell the truth in the same way that all witnesses are required to tell the truth in court.

Some Judges also expect an older child to appear in court for periodic case review hearings. In those cases, the Judge may ask the child to speak to the court about what the child wants, what the child needs, and the progress that the child is making. If your child is 16 or older, your child will receive notice and the opportunity to make recommendations at the permanency hearing.

In most cases, your child will not have specific responsibilities. The child will receive care and treatment that the court requires others to provide for the child, based on the court's decisions about the child's best interests.

What are the responsibilities of the Department of Child Services?

The Department of Child Services (DCS) is required to perform the following activities under federal or Indiana law. There is further information on each of these activities in the sections of this booklet that follow.

1. Conduct a thorough and appropriate assessment of reports of child abuse or neglect;
2. Obtain a court order prior to removing any child from the home, or document why the DCS family case manager was not able to obtain such a court order;
3. Give you, the child's parents, information about your rights;
4. Determine if there are relatives who can care for your child if your child has to be removed from the home;
5. Offer services to you, the parents, based on the child protection services assessment that appear appropriate for your child and the family;
6. Keep information about your child's case confidential, with certain exceptions;
7. Provide the court with specific allegations and evidence if a Child in Need of Services petition is filed by DCS;
8. Offer services to help your family stay together and eliminate the need for removal of your child from the home or offer services to help your child be returned to your home with all safety concerns met;
9. Make recommendations to the court for your child's care and treatment and for family services to be provided to you;
10. Provide information to the court on your financial situation;
11. Offer you a Child and Family Team Meeting so you can have an active voice in the development of your goals and plans;
12. Develop an individual case plan for your child;
13. Carry out orders of the court for your child's care and treatment, visitation, and services to be provided;

14. Provide regular progress reports to the court and attend court review hearings;
15. Give you, the parents, copies of reports to the court, unless the court determines that the information in the report should not be shared with you;
16. In the reports to the court, give information on the family services that were provided, the dates of such services, and the outcomes of the services;
17. Under certain conditions, file a petition to terminate the parent-child relationship and present evidence to the court about what the family case manager believes is in the best interests of the child.

Who makes sure that DCS meets its responsibilities?

DCS family case managers must report to the court with juvenile jurisdiction on those responsibilities that are identified in court orders and those that are covered under the Indiana law for a Child in Need of Services.

The employees of DCS local offices also report to the Director of the Indiana Department of Child Services. This agency has its main office in Indianapolis. Employees who do not perform their jobs as required or who act outside their defined responsibilities may be disciplined under personnel rules for the State of Indiana.

The Department of Child Services is also accountable to the United States Department of Health and Human Services to follow federal law in protecting abused and neglected children and in providing services to children and their families.

In addition, each community's Child Protection Team may receive and review complaints about child abuse and neglect cases that are brought by any person or agency.

If you have a specific complaint about DCS, it is best to talk first with the family case manager assigned to you. If that does not help, then talk with the supervisor or the director of the local DCS office to try

to resolve your complaint. If you are unable to resolve your complaint at that level, the most frequent next step is to contact the DCS Regional Manager to try to resolve your concerns. You may also seek the help of your attorney.

CHILD IN NEED OF SERVICES PROCESS

What does CHINS mean?

CHINS means Child in Need of Services. Indiana law says that a child is a CHINS if the child is a victim of child physical abuse, child sexual abuse, or child neglect. A child can also be a CHINS if the child is a danger to himself/herself or others and needs care or treatment that the court must order to be provided to the child. A “child” is defined as a person under the age of 18.

If there is a reason to believe that your child has been abused or neglected and is in need of court action to protect the child and to provide care and treatment to the child, a petition may be filed in court by the Department of Child Services. The petition will ask the court to decide that your child is a CHINS.

The conditions for CHINS are more specifically written in the law (IC 31-34-1) as:

1. The child’s physical or mental condition is seriously impaired or seriously endangered due to the neglect, refusal or inability of the child’s parent (or guardian or custodian) to give the child the necessary food, clothing, shelter, medical care, education, or supervision; or
2. The child’s physical or mental health has been seriously endangered due to an injury by the act or omission of the parent (or guardian or custodian) of the child; or is a victim of assisting suicide, battery, strangulation, or neglect of a dependent offenses or attempt or conspiracy to commit the offenses; or the child lives with an adult who has been convicted or charged with one of the offenses against another child who lives in the household;

3. The child is a victim of a sex offense, or lives in the same household as another child who is a victim of a sex offense, or lives with an adult who committed the sex offense or has been charged with a sex offense, or a human or sexual trafficking offense the sex offense; or,
- 3.5 The child is a victim of human or sexual trafficking regardless of whether the child consented to the conduct.
4. The parent allows the child to participate in an obscene performance; or
5. The parent allows the child to commit a sex offense; or
6. The child substantially endangers the child's own health or the health of another; or
7. The child's parent fails to participate in a school disciplinary proceeding if the child has been repeatedly disruptive in school, under certain conditions; or
8. The child is a missing child; or
9. The child is born with fetal alcohol syndrome, neonatal abstinence syndrome, or any trace of a controlled substance or legend drug; or the child has an injury, abnormal physical or psychological development, neonatal intoxication or withdrawal, or a substantial risk of a life-threatening condition, due to the child's mother's use of alcohol or controlled or legend drugs during the mother's pregnancy; (Note: The child is not a CHINS if the child's mother possessed a valid prescription for the drug and the mother did not violate certain laws in taking the prescribed drug.)

In all CHINS determinations, the Judge has to decide that it is necessary for the court to intervene in order to provide the care, treatment, or rehabilitation that the child needs. If the Judge does not have evidence to make this determination, then the child may not qualify as a CHINS.

The CHINS law does not limit the right of a parent to use reasonable corporal punishment when disciplining the child. It also does not limit the lawful practice or teaching of religious beliefs. However, the court may order medical services when the health of the child

requires it or in situations in which the life or health of the child is in serious danger regardless of your religious beliefs.

How can they take my child out of my own home?

A family case manager from the Department of Child Services, a police officer, or sheriff's deputy has the authority under the law to remove your child from your home under certain conditions. This is called "detention" of the child under Indiana law. It is also called "taking the child into custody."

First, before a child can be taken away from his or her parent, there has to be a reason to believe that the child has been abused or neglected and is a Child in Need of Services.

Second, the person taking the child has to believe that the child is in serious danger or at risk of being seriously impaired if the child is not removed for the child's own safety.

Third, the person taking your child should have obtained a court order to take your child, or the person has to make a record of why he was not able to obtain a court order before taking your child. The court order does not have to be in writing at the time your child is taken. A Judge may give a verbal order to take a child into custody.

Fourth, the person taking your child has to give you a paper that spells out your rights as a parent.

Fifth, if you are not there when your child is taken and you are the parent who has custody of the child, Department of Child Services has to notify you within 2 hours that your child has been taken into their custody. The notice must identify who can be contacted to obtain information about the removal of the child. If the family case manager is unable to locate you, he or she must make a good faith effort to leave a written notice at your last known address within 6 hours under IC 31-34-3-2. (An exception to the 2 hours may occur if your child needs immediate medical care, shelter, food, or other crisis services.)

What can I do about it?

The first thing to do is to know who is taking your child and why

your child is being taken. Things you should ask the person taking your child:

1. Ask the person or persons for their identification (identification card or badge).
2. What is the reason that the child is being taken?
3. Does the person have a court order? If so, ask for a copy if the order is in writing. If not, ask for a copy of the document that they will complete about why they were not able to obtain a court order.
4. Whom can you contact for more information on why your child is being taken and where your child is being taken? Get the person's name and telephone number.
5. What can you do right away to begin to get your child back? Are there any services that the family case manager can help you to obtain right away to work on any problems that the family case manager believes led to the danger to your child's safety?
6. If and when you can see the child for a visit.

Things you should tell the person who is taking your child:

1. If your child is on any medication, give the child's medication to the person who is taking your child.
2. If your child has any allergies or other medical conditions, and if so, the name and telephone number of your child's doctor.
3. If there is a relative with whom you want your child to live while the allegations of abuse or neglect are being investigated. Give the relative's name, address, and telephone number to the family case manager.
4. How you may be reached during the day and at night.
5. The name and address of your child's other parent if that person does not live with you.
6. Any other information about your child that the child's caregiver should know.

7. Whether your child is an Indian (Native American) child.
8. Whether your child's other parent is a member of the U.S. military, and where the other parent is stationed.

How do I find out what is going on?

If your child has been taken into custody, you will be able to go to court within 48 hours to see about getting your child returned to you. The 48 hours does not include weekends and legal holidays. This court hearing is called a **detention hearing**. You should plan to attend this court hearing so that you can know more about why it was necessary to take your child from your home. You can also ask the court to consider returning your child to you if you can safely care for your child at home.

You should also continue to call or contact your child's family case manager about what you are willing to do to have your child returned to your care. You should ask about having an attorney appointed to represent you in court and to help you understand your rights more completely.

How do I find out about getting an attorney?

If you are able to afford an attorney, you may want to contact someone you know to represent you. If you need help in finding an attorney, you may contact your county Bar Association, Indiana Legal Services, or Legal Aid for assistance in locating someone who practices juvenile or family law.

If you cannot afford an attorney, you have the right to ask the court to appoint an attorney to represent you. You should be prepared to show the court that you cannot afford to pay for an attorney by bringing your pay stub and bills with you to court.

Is a CHINS petition the only action the DCS can take?

There is another option that DCS has if your child is not in serious danger in your home. DCS may ask you to accept services to correct the problems that led to the belief that your child was abused or neglected. You may be asked to sign an agreement, called an **Informal Adjustment Program**. By signing this, you agree to participate in the services and complete the tasks as written. DCS will provide you with the names of agencies that offer the services you need. DCS may also pay for these services. In exchange for your agreement, DCS will allow your child to remain in your home, with a plan for the child's safety. The Informal Adjustment Program usually lasts for 6 months. The agreement is submitted to the juvenile court Judge for approval. The Judge may deny the request for an Informal Adjustment or set a hearing to decide whether the Informal Adjustment should be approved.

If you do not participate in the Informal Adjustment Program, DCS may file a petition informing the judge that you have not done what you agreed to do. After notice to you and a hearing, the Judge may find you in contempt of court. Not later than five months after you reach agreement and start the Informal Adjustment Program, DCS will file a report with the court about the tasks and services you have completed. The Informal Adjustment may be extended for an additional three months if the Judge orders the extension. If the Judge approved a three month extension of the Informal Adjustment Program, DCS will file a report within eight months of the start of the Informal Adjustment Program.

What happens when a Child in Need of Services Petition is filed?

A CHINS petition shall be filed before a detention hearing. The petition will ask the court to decide that your child is a CHINS. The petition states the reasons that DCS believes that your child is a CHINS. You should receive a copy of the petition.

When a petition is filed with the court, you will receive a summons to appear at a court hearing that has been set. This court hearing is called an **Initial Hearing**. The Initial Hearing shall be held at the same time as the detention hearing. The hearing is held by the Juvenile Court. The Judge will inform you of the following information:

1. What the charges (called allegations) are that your child has been abused or neglected or otherwise meets the qualifications to be a CHINS. This should include the exact reasons as to why your child is believed to be abused or neglected.
2. What actions the court may take if the court decides that your child is a CHINS.
3. That you as the parent may be required to participate in a treatment program for your child or other services.
4. That you may be held financially responsible for services provided to you or to your child.
5. That you may deny or disagree with the allegations made about your child and yourself.
6. That you may disagree with the information provided to the court about your financial ability to pay for services.

How can I prepare for the court hearing?

First, it is important for you to attend the court hearing. Make arrangements at your job, for child care for your children, and for other commitments that you need to make to be there. It may look like you do not care about your child if you did not come to the hearing.

Second, meet with your attorney about the CHINS petition and what it says about you and your child. Be sure that you have a copy of the petition. You should also ask for copies of the DCS investigation report and any other reports that are filed about you and your child with the court.

Third, ask your attorney to help you decide what you want to say to the Judge. Be sure you talk with your attorney about asking to visit your child, especially if a visitation schedule has not been set up.

If you do not have an attorney, it is best to talk with a professional or a person whom you trust about what you are going to say and what you are planning to ask the Judge.

What do I say to the Judge?

The Judge will ask you if you admit or deny the allegations of the petition. You have to decide whether you agree with the petition. If so, you admit it. If you do not agree with the petition, then you deny it. Your attorney can give you the best advice about admitting or denying the petition based on your own situation.

If you admit the allegations (meaning that you agree that your child is a CHINS), then the Judge will make a judgment about your child being a CHINS. If the Judge decides that that your child is truly a CHINS, the Judge will then set another court hearing to make decisions about the best care and treatment for your child and your responsibilities as the child's parent. The next hearing is called a **Dispositional Hearing**.

If you deny the allegations of the petition (meaning that you believe that your child is not a CHINS), then the Judge will set a hearing to review the facts of the case, called a **Factfinding Hearing**. The Factfinding Hearing must be completed not more than 60 days after the CHINS petition is filed. The 60 day time limit may be extended by another 60 days if all parties to the case agree.

What happens at a Factfinding Hearing?

At that hearing, you will have the opportunity to present any facts and information that helps you prove that your child should not be found to be a Child in Need of Services. You have the right to call witnesses and other persons whom you want to speak on your behalf. You can use a subpoena to call these witnesses or persons to the hearing.

The Judge is required to consider all the evidence and make a decision based on the weight of the evidence presented at the hearing. Evidence is presented, and witnesses testify. You may testify about the allegations in the CHINS petition and how you have remedied the problems which caused your child to be removed. Parents, the DCS attorney, and your child's CASA or GAL can question witnesses. The Judge listens to the testimony and reviews the evidence before making a decision.

If the Judge decides that your child is not a CHINS, your child will be returned to their home, and the juvenile court case will be closed. If the juvenile court case is closed, any court orders about your child's custody and visitation which were in place before the CHINS petition was filed will determine where your child lives and who has visitation.

If the Judge decides that your child is a Child in Need of Services based on the facts presented at the hearing, the Judge will set another court hearing to make decisions about the best care and treatment for your child. At that next hearing, called a **Dispositional Hearing**, the Judge will also decide what your responsibilities as a parent are to participate in family services and pay for services provided to you and your child, and where your child will live.

DCS refuses to provide me with services to get my child back. Does this mean that they are not doing their job?

There are some exceptions to the requirement upon DCS to provide you with family services. These are:

1. If you as the parent have been convicted of certain crimes involving violence against your child or step-child that resulted in serious bodily injury, serious neglect of a dependent, or sexual assault;
2. If you as the parent have been convicted of murder or voluntary manslaughter of your child, step-child or the other parent of the child;
3. If you as the parent have had your parental rights to a brother or sister of the child terminated by a court against your wishes (called involuntary termination of your parental rights); or
4. If the court finds that your child is an abandoned infant under the law because you or the other parent of the child knowingly and intentionally left the child, who was less than 12 months old at the time, in a dangerous place or in a hospital or medical facility without any plan to come back to take care of the child; or you or the other parent knowingly or intentionally left the child who was less than 30 days old with an emergency medical services provider without saying that you or the other parent will come back to take care of the child.

A court may make the decision that you are not entitled to reasonable efforts to keep your family together or to reunite your family if any of the above four conditions apply to you as a parent. If the court makes the decision that you are not entitled to these services, the court may order another court hearing, called a permanency hearing, to be held within 30 days to look at a plan to place your child with another family (either for adoption, guardianship, or other type of arrangement) or with the other parent of the child on a permanent basis.

What happens at a dispositional hearing?

The dispositional hearing will be held 30 days after the Judge decides that your child is a CHINS. The Judge will have a report from DCS that makes recommendations about your child and your family. Your child's CASA or Guardian ad Litem may file a report. The reports shall be made available to you at least 48 hours before the hearing. You can also file a report with your recommendations to the Judge; ask your attorney to help you with this. Be sure that you talk with your attorney about what you want to happen at the court hearing. When you meet with your attorney, take copies of information you have about services that you have already received.

The Judge will look at all the recommendations and may ask you some questions before making a decision. The purpose of this court hearing is to decide what the child needs, what you must do, and what DCS must do on your child's behalf. The law requires the Judge to consider placing your child with relatives before considering foster care or other out of home placements for your child, so be sure to tell the DCS family case manager, your attorney, and the Judge about any suitable or willing relatives who could care for your child.

During or after the dispositional hearing, the Judge will make an order that includes:

1. The placement, care, treatment and rehabilitation services for your child;
2. Any services in which you as the parent are required to participate, which is called a Parental Participation Order;
3. Any financial responsibility for these services that you

have;

4. Any efforts that the Department of Child Services is required to make to provide you and your child with services; and
5. Any other orders, including visitation arrangements and no contact orders, that the court decides are appropriate and in the best interests of your child.

The dispositional hearing may be continued for not more than 7 days if DCS recommendations are different from the court's recommendations. DCS shall file a supplemental report stating the DCS final recommendations. The Judge shall accept each final recommendation made by DCS in the supplemental report unless the Judge finds that a recommendation is unreasonable, based on the facts of the case or contrary to your child's welfare and best interests. You are required to follow the juvenile court orders and should ask the Judge questions if you do not understand the orders.

DCS shall file a progress report every 3 months after the dispositional order. If DCS receives information that you may have violated a dispositional order, including providing a positive drug or alcohol screen, DCS will inform the court.

Can the court's order be changed?

Yes. You can file a motion to ask the Judge to reconsider or, if you think the Judge's decision was wrong, you can speak with your attorney to determine whether an **appeal** of the court's decision would help you. Appealing the Judge's decision may delay a permanent home for your child and will not excuse you from doing what the Judge has ordered you to do.

The Judge will also tell you how you can request that the court orders be changed in the future (called **modification**). For example, you may decide to request that a court order be changed in the future if you believe that you should have more frequent or longer visits with your child.

If you want a court order to be modified, talk first with your attorney about filing a motion for modification. When you meet with your attorney, take copies of documents you have that show what you have

done for your child and services you have received. Take a list of things that you want to see changed.

The court has to notify the persons affected and may hold a hearing on the motion for modification that you have filed. Remember to speak out at the court hearing about what you want for your child and yourself.

What is a periodic case review? How can I show the Judge that I can take care of my own child?

The court must hold a **Periodic Case Review** hearing at least every 6 months or more often if the Judge decides that a more frequent hearing is needed. Sometimes this is called a **Placement and Jurisdiction Review**. The 6 months count starts with the date your child was removed from your home or the date the court issued its dispositional decree, whichever came first. The purpose of these case reviews is to look at the progress that has been made by the child, the parents, and the Department of Child Services. In particular, the Judge will look at whether the problems that led to the child being found by the court to be a CHINS have been resolved. This hearing takes place even if the child was not removed from your home.

DCS must give you notice of the court hearing at least 7 days before the hearing. They must also notify the child's foster parents and other persons who take care of the child or have a significant relationship to the child. You and these persons have the right to appear and speak at the court hearing. DCS will write a report for the hearing and make a copy available to you at least 48 hours before the hearing.

At the periodic case review hearing, the Judge has to consider whether or not additional services are needed and whether or not to continue the placement of the child and supervision by the Department of Child Services.

You should prepare for this hearing by meeting with your attorney, bringing written information about the services you have received, and reviewing the report that DCS has given to the court. It is important that you attend the court hearing and talk about what you have done to try to make your home a safe place for your child. You can also give the Judge your own report on services you have received, including dates of the services, and visitation with your child, including dates you visited.

The Department of Child Services has to provide the court with information on the family services that were provided to you, the dates of such services, and the outcomes of the services.

In addition to reviewing the progress that has been made, the Judge has to look at your efforts to improve your parenting abilities, the visitation that you have had with your child, the reasons for visits being missed (if any), and the way that you have addressed the problems which led to your child's removal from your home. The Judge also has to consider the opportunities that you as the parent have had to be involved in case planning, placement of the child, and visitation with your child.

The Judge will determine the need to continue the placement and supervision of the child. The Judge will issue orders based on the best interests and special needs of the child. If the Judge does not return your child to you at this court hearing, the Judge is also required to include a projected time by which your child may be returned to you, or be adopted, have a legal guardian appointed, or be emancipated (independent living).

At any time after your child has been removed from your home for at least 6 months after the dispositional decree, the Department of Child Services may file a petition to terminate your relationship with your child, if not enough progress is being made to reunify your child with you and that this is in the child's best interest. (See section on Termination of Parental Rights.)

What is a permanency hearing?

A permanency hearing is a court hearing to determine the long-term plan for a permanent living arrangement for the child. Indiana law requires such a hearing to be held every 12 months after the date when the child has been removed from the child's home or the date of the dispositional decree, whichever comes first. In addition, such a hearing is required within 30 days after the court finds that reasonable efforts to reunify or preserve a child's family are not required under the law.

The Judge must consider the recommendations of persons who have been notified and have an opportunity to be heard. This includes you as the parent and the child's foster parent or relative caregiver. This

also includes your child if your child is at least 16 years old and the proposed permanency plan is to have your child work on a plan for independent living. The Judge must also consider whether to return the child to you or the other parent and end jurisdiction of the court. The Judge is required to consider the best interests of the child in making these decisions.

(Please refer to the Permanency Planning section of this booklet for more information on what you can do to prepare for this hearing.)

How often does the court have review hearings?

The court is required by the Indiana law to hold a hearing on the child’s case at least once every 6 months. Some Judges choose to hold hearings more often so that they keep up with the child and the family’s progress in the case. These hearings are called **periodic case reviews** or **placement and jurisdiction reviews**. It is important that you plan to attend each of these scheduled hearings. You will receive a notice of the hearing at least 7 days prior to the hearing. You should be sure that the DCS family case manager has your correct address so that you will receive notice of the hearing and a copy of the DCS report.

Meet with your attorney about what you want to say at the court hearing. Be sure that you understand what is supposed to happen at each hearing so that you can be prepared to participate. For more information on what the Judge is required to review, please refer to the section on the periodic case review above.

GETTING THE MOST OUT OF SERVICES

Who are all these people who are now involved with me and my child?

The first person responsible to work with you is your Department of Child Services family case manager. Each child in the CHINS process has a DCS family case manager assigned to work with the child and the child’s family. The family case manager’s job is best described under the section “What are the responsibilities of the Department of Child Services?”

Your child may also have a foster parent or relative caregiver who takes care of the child in the foster parent's or relative's home. If your child is in a group home, a youth shelter, or a children's home, then the child will have a child care worker or workers and a social worker.

Your child will also have a Court Appointed Special Advocate or Guardian ad Litem (CASA/GAL) who represents the best interests of the child and speaks for the child in court. The CASA or GAL may be a trained community volunteer, an attorney, or a staff person from the county CASA or GAL program. The CASA or GAL will meet with your child, and may also speak with you, the foster parents, the DCS family case manager, and others who are providing services for you and your child. The CASA or GAL may participate in case planning, Child and Family Team Meetings, and file reports with the court which contain information and recommendations for your child's best interests. The CASA or GAL will also make recommendations about a permanent plan for your child.

You may also be working with service providers to improve your parenting, to get counseling about family or personal problems, to treat a drug or alcohol problem, or to address another problem in your family. These service providers will be involved in your family as they try to help you be a better parent and to make your home safer for your child.

These services are coordinated through a **case plan** for your child.

What is a case plan? How can it help me?

A **case plan** is a written record of the plan for the child's care and treatment, for any family services to be provided, and for the future of the child. It includes a goal for the child. Most often this goal is to return the child to the child's family, but another living arrangement may also be the goal for the child.

A case plan can help you because it shows in writing what you have to do to get your child back in your home or end DCS's involvement with your family. The case plan is developed through a process of give-and-take between the family case manager and you as the parent. You should ask the family case manager for an appointment

to talk about the case plan within the first 30 days of your child's removal from your home. The case plan may be discussed at a Child and Family Team Meeting. If all required parties attend the Child and Family Team Meeting, the case plan can be developed at this time. If all required parties are not present at the Child and Family Team Meeting, then a separate case conference will be scheduled to develop the case plan. (Please refer to the Child and Family Team Meeting section of this booklet for more information.)

The case plan must be completed no later than 60 days after the child has been removed from the child's parents, or the court has issued a dispositional decree, whichever comes first. Usually, the date on which the child was removed from the child's parents comes before the date of the court's dispositional decree. However, in some situations, the child was not removed, or the child was returned to the parents; and the dispositional decree date comes first in those situations.

It is important for you as the parent to remember the date on which your child was removed and the date that the court issued its dispositional decree. Knowing those dates can help you in asserting your rights to have the case plan developed and, also, to have some of the court hearings held in the right time frame. These time frames are meant to keep things moving so that your child is able to have decisions made before a lot of time goes by. It is important to remember that time moves very slowly in a child's mind. Adults can get involved in their plans and forget that the child is waiting for something to happen that will make things better for the child.

As the child's parent, you have a right to be involved in drawing up the case plan for the child. The case plan is developed by the DCS family case manager assigned to your child. In working with the family case manager, you can negotiate what you think is best for your child. Your child's foster parent or relative caregiver will also be involved in making the case plan. Your child's CASA or Guardian ad Litem may also be involved in creating the case plan.

Sometimes DCS may work on concurrent planning, which means that DCS will work on two different permanency plans at the same time. DCS should inform you and your child's other parent about each of the plans.

What is in a case plan?

The plan must include:

1. The plan that will provide the child with a family on a permanent basis. This most likely is your family, with the goal being to return the child to you. However, another plan for the child may be to place the child with the other parent, with a relative, or with an adoptive family. You should always be clear in stating to the family case manager what you want for your child on a permanent basis.
2. The date by which the child may be placed with a permanent family. If the permanent family is your family, then this is the date on which the family case manager believes that the child can be returned to you.
3. A description of the placement, if the child is out of your home. This placement must be the most family-like, least restrictive setting that is most appropriate and meets your child's special needs and best interests. The Department of Child Services is required to consider any suitable and willing blood or adoptive relative of the child before considering other possible places for your child to reside. The setting where your child is placed must also meet certain standards for the safety of your child. Relatives must pass a criminal history and DCS history check made by the family case manager.
4. Family services that are recommended for you and your child in order to improve the conditions in your home; assist in returning the child to your home with assurance of safety for the child; or to assist in placing the child with another family on a permanent basis, if that is the plan for the child.
5. Services that are to be provided to the child and the foster parents to address the needs of the child while in foster care.
6. A plan to meet the child's health needs and the inclusion of the child's record of immunizations, any known medical problems, and medications that have been prescribed for the child.
7. A plan to meet the child's educational needs, including a plan for least disruption in the child's school of enrollment at the time of

placement, and the inclusion of information related to the child's school, performance in school, and any special educational needs of the child.

8. Efforts already made to provide services to the child and family.
9. Efforts that will be made to provide family services that are ordered by the court.

Why is a case plan important?

It is important for you as the parent to know that the case plan is more than a piece of paper. It is also a process for you and the family case manager to work together to plan for your child. It is important for you to keep appointments and talk with the family case manager about your ideas and plans for yourself and your child.

In order to make the best use of services, you should be honest with the family case manager about problems you have had in taking care of your child or in providing a safe home for your child. The family case manager is required to provide you with services to address these problems. An honest conversation about what you see as the problems will help the family case manager in getting the right services to you. If there are many disagreements between you and the family case manager, or if there are important issues on which you disagree, you may want to talk with your attorney about what you can do.

It is important to note that DCS will present the case plan to the Judge, so it is important for you to listen to the family case manager's view of the problems as well. You have the right to state your agreement or disagreement in the court hearing as well as to the family case manager.

In addition to the above items, the case plan should also include a plan for visitation between you and your child, unless the court has determined that visitation is not in the best interests of the child. The case plan should also include information on how the family case manager and the case manager's supervisor can be reached.

Should I sign the case plan? What if I do not agree with it?

There are places on the case plan for you as the parent to sign and for the family case manager to sign. You can choose to sign the case plan or not, depending on whether or not you agree with the plan for your child. You may want your attorney to look at the case plan if you have questions about it or disagree with it. It is important that you understand that the case plan does go into effect whether you choose to sign it or not.

The case plan is a part of your child's record. Under Indiana law, you are entitled to have a copy of the case plan sent to you within 10 days of the plan's completion by the family case manager.

The case plan is usually effective for 6 months, although the time frame may be shorter if the family case manager or the Judge determines that it should be, based on your situation and the child's best interest. The case plan must be reviewed at least every 6 months in order to be kept up to date. You have a right to be involved in this review and to receive a copy of the case plan as it is revised.

What is a Child and Family Team Meeting? How can it help me?

A Child and Family Team Meeting is a meeting of the people who are important to the child and who are involved in resolving the problems that led to the child's abuse or neglect or to the CHINS decision. The purpose of the Team Meeting is to work on goals that the family identifies, create family support for safe sustainable case closure and to help empower the family. The Child and Family Team Meeting process focuses on the underlying strengths and needs of the family. Most often, the Team Meeting will include the parents, the DCS family case manager, service providers working with the child and the parents, the foster parents or the agency providing the daily care of the child, and the CASA or Guardian ad Litem. Parents can choose to bring people who are important to them and to the child to this conference.

A Child and Family Team Meeting can help you by giving you and the other people in attendance a chance to identify your strengths and to speak your mind about important issues. You should also have the chance to give your ideas about what will fix the problems that led to your child's involvement in the CHINS process. You should be able to

make suggestions about the type of services you need and who should provide those services. You may share ideas about how your relatives or neighbors can help you out when there is a problem regarding your child. Any differences between team members that cannot be resolved will be communicated to the Judge for consideration at the dispositional or case review hearing.

How do I show that I am doing better as a parent?

It is important for you to participate in the services provided to you. You need to be able to show that you are learning new things about being a parent. You should spend time during your visits with your child practicing some of the new things that you are learning through the services provided to you.

It is also important for you to keep your own notes about the services you are receiving and who is providing those services. Keep a copy of your case plan and know what it says that you should do. Do the things that you agreed to do. This helps the family case manager to know that you are sincere and that you care about your child.

Keep your attorney informed about how you are doing and what you have completed in the case plan. Talk to your attorney about what to say to the Judge about your progress. If you do not have an attorney, talk with someone you trust and practice what you are going to say to the Judge.

PERMANENCY PLANNING

What is permanency planning?

Permanency planning is the process of determining the long-term, permanent living arrangement for the child. The result of such process is a written **permanency plan** that is recommended to the court. The permanency plan must be developed within 12 months of the child's removal from the home or the date of the dispositional decree, whichever comes first. The options in permanency planning include:

1. Return to the child's custodial parent or parents, or continuation of existing care for the child by the parent or parents;
2. Placement of the child with the noncustodial parent;
3. Placement of the child for adoption;
4. Placement of the child with a relative who is able to act as the child's permanent custodian;
5. Appointment of a legal guardian on a permanent basis; and
6. If the child is 16 years old or older, placement of the child in another planned, permanent living arrangement.

Most often, the permanency planning process follows the same process as the development of the case plan. The court must approve the permanency plan for it to be in effect. The permanency plan must include a time schedule for carrying out the various parts of the plan to meet the court-approved option chosen from the above list. Sometimes DCS may work on concurrent planning, which means that DCS will work on two different permanency plans at the same time. DCS should inform you and your child's other parent about each of the plans.

Why is permanency planning important?

Time moves very slowly for children. Your child should not have to spend a long time in foster care without knowing who will be the child's permanent family. In most cases, the child's permanent family will be you, as the parent of the child. In some cases, the child will not be able to be returned to you due to safety concerns. In those situations, it is best for the child to quickly be placed with a family who can take care of the child and meet the child's needs for safety and well-being, on a permanent basis.

How do I decide what to do for my child?

It is important that you decide if you continue to want your child returned to your home. If you still want this, then let the family case manager know what you are willing to do to get your child back. If you are not sure that you can take care of your child or that your child will be safe in your home, you may want to explore other options with the family case manager, with your attorney, or with another professional whom you trust.

The most important thing is for your child to have a permanent family where your child is loved and is safe from abuse and neglect. All children need a home where they can be assured that they are safe, that someone loves them, that someone will take care of them, and that someone will be there when the child needs help. As the parent, it is your privilege to be that “someone” for your child. The best gift you can give your child is to be a loving, caring parent.

If you cannot be the “someone” who takes care of your child, for whatever reasons that exist, please help the family case manager and the Judge make the best decisions for your child so that your child does have “someone.” As a parent, that can be the next best gift you can give your child for your child’s future.

What are my options in looking out for my child’s future?

If you decide that you are not able to take care of your child, you have some options in working with your child’s family case manager to make a plan for another permanent home for your child. These include:

- 1. You want the child’s other parent to have custody of your child.** This can be best accomplished by asking the other parent about his or her interest and ability to take care of the child. If the parent is interested, there will usually be a study done of the other parent’s home and ability to take care of the child, in order to report to the court on the parent’s situation and the best interests of the child.

- 2. You want another family member to take care of your child on a more permanent basis.** There may be a grandmother, aunt or uncle, grown sister or brother, or another related adult with whom you want your child to live. For this option to work, this relative would have to agree to take the child on a permanent basis and raise the child. There would be a study done of the relative's home and ability to take care of the child. The relative would have to agree to follow the orders of the Judge in meeting the child's needs. The relative would become the child's custodian under this option.
- 3. You want another person or persons to adopt your child.** You may want to allow someone who is close to the child to adopt your child. For this to happen, you would have to agree to give up your rights to the child. Talk with the person you have in mind to see if he or she is interested in adopting your child. (See the section below on voluntarily giving up your child for adoption.)
- 4. You want another person or persons to be appointed as a guardian for your child.** Guardianship is a legal process in which the person agrees to act as the child's permanent caretaker, and the court grants the guardianship. The guardian would have the right to take care of the child, make decisions for the child, and raise the child according to the guardian's beliefs. The guardian would have physical custody of the child under this option.
- 5. You want another planned, permanent living arrangement for your child.** This option depends mostly on the child's age, special needs, and current living situation. For example, if your child is a child over the age of 16, your child may not wish to move from his or her current placement or to be adopted. It may be in the child's best interests to stay where he or she is currently living and for that foster parent or child care facility to continue to provide for the child's daily care and treatment needs. If your child is age 16 or older, the plan for the child may be to develop independent living skills and to work with the child to live on his or her own or in another planned, permanent living arrangement as the child gets

closer to the age of 18.

What if I want something different for my child than the DCS is recommending?

It is important that you tell the family case manager what you want for your child's future, so that an appropriate plan can be made for your child. If the family case manager disagrees with your choices for your child's future, you have the right to tell the Judge what your wishes are for your child.

It is important to remember that the Judge will make the final decision about your child's permanent living arrangement. You should be prepared to make your own recommendations to the Judge about what is best for your child. Your attorney can help you with this decision. If you do not have an attorney, talk with another professional whom you trust about what you want to recommend.

Can I continue to try to get my child back even if the DCS has another plan for my child?

As long as your parental rights have not been terminated by the court, you can continue to request that you be provided with services to improve your ability to take care of your child and to address the safety concerns that led to your child's removal. However, if the court has ordered that the child be placed with another person on a permanent basis, or be placed for adoption, the court may decide not to order such services for you.

In all of these situations, if you want to have your child returned to you, you should continue to seek services to improve your parenting ability and to actively make the changes required to have your child be safe from abuse and neglect if returned to your home.

There are two plans for my child. How can this happen?

There may be times when there are two plans for your child, called “concurrent planning.” This occurs when you may still be working on a plan to have your child returned to you, and the Department of Child Services may have a second plan to place the child for adoption or with another person. Most often, this will occur after a court has approved a permanency plan that is different than reunification of the child with the parent or parents. DCS will inform you and the child’s other parent if there are two concurrent plans for your child.

I am thinking about giving up my child for adoption. Is it OK for me to do that?

As a parent, you may choose to voluntarily terminate your relationship with your child, or to consent to adoption, so that someone else can adopt your child. In this situation, you have the right to be advised of the results of voluntarily terminating your relationship with your child.

You also have the right to be represented by an attorney.

After you have been advised of your legal rights, you will be asked to sign the papers to voluntarily terminate your rights to the child. It is important to know that you cannot take back your signature without proving that you were misled or pressured against your will into signing the papers, or that you were not competent to make the decision to voluntarily give up your rights to your child. You will want to have your attorney present at the signing, so that if you have any questions, he or she can answer those for you.

You will be sent a notice of the court hearing that will be held about your voluntary signature of the papers. You can waive your right to this notice. Ask your attorney about this before signing such a waiver. In most cases, the Judge will want to hear from you that you knew what you were doing in signing the papers. The Judge will make a decision about whether or not to accept your voluntary termination of your relationship with your child.

It may be that you only want to voluntarily terminate your rights to your child if a certain person is allowed to adopt your child. You

should consult with your attorney about how to do this. There is a process where you can voluntarily consent to the adoption of your child by a certain person or persons.

If your child is a CHINS, it is important to know that the Department of Child Services also has to decide whether or not to consent to the adoption of the child by the person you want to adopt the child. The DCS may disagree on your choice of the adopting parent or parents; and, if so, they may choose not to consent to the child's adoption by the person(s) you named. If this is the case, it is best to speak to your attorney about your options.

Regardless of whom you choose to adopt your child, it is important to know that the person will have to have a criminal records check and will also have a home study, unless the court decides the home study is not needed because the person is your child's stepparent or grandparent. He or she may be required to attend training. The adoption court will make the final decision on whether or not to grant the adoption of your child by the person or persons whom you select. The juvenile court does not make the final decision on granting an adoption.

If I give up my rights to my child, will I be able to see my child again?

Under certain conditions, you can request that the court grant you postadoption visitation privileges. The court is not required to grant your request, but will take your request into consideration.

If you are considering voluntarily giving up your rights to your child, there may be certain information, letters, pictures, or other things you want your child to have. You can give these items to the family case manager with the request that they be given to your child at a certain time. In most cases, your request will be honored, unless to do so would violate a court order or the law.

It is important that you understand that adoption records are confidential and that they are sealed by the court when an adoption is finalized. They may be opened only under certain conditions. However, there is a program called the Adoption History Program, administered by the State Department of Health. This program

allows birth parents and adopted children to exchange some information when the child reaches the age of 21. You may want to ask for information about this program so that you can take advantage of the opportunities to contact your child when the child is grown.

What else do I need to know about adoption?

You should understand that the court order that grants the adoption of your child by another person is final. That person or persons becomes your child's parent or parents. They will have the right to make all the decisions about raising the child. The child is legally their child.

It can be very hard to allow someone else to become your child's parent. You may want to talk with a professional whom you trust about your feelings. Seek the support of friends and relatives who care about you. Remember that it is important to think about what is best for your child. It takes a lot of courage to release your child from your relationship so that the child can have a better life. You should give this a great deal of thought and be sure that you understand what you are doing for your child and yourself.

Adoption is a wonderful opportunity for many children. It can also be an opportunity for the child's birth parent to be free to make some choices about his or her own life. It is important for you to take the time you need and to seek advice about what is best for your child and yourself.

INVOLUNTARY TERMINATION OF THE PARENT-CHILD RELATIONSHIP

There are certain conditions under which your relationship with your child can be permanently and legally ended by a court against your wishes. This is called **involuntary termination of the parent-child relationship**. This means that all your rights to be a parent to your child will be ended by the court.

How could this happen to me?

The conditions under which this can happen are:

1. There is a reasonable probability that the conditions which led to your child's removal or reasons for placement outside your home will not be improved;
or there is a reasonable probability that the continuation of your relationship with your child poses a threat to the child's well-being.

AND

2. Termination of your rights as a parent is in your child's best interest.

AND

3. There is a satisfactory plan for your child's care and treatment.

AND

4. Your child has been removed from you as the parent for at least 6 months under a dispositional decree of the court; or a court has found that you are not entitled to reasonable efforts to preserve your family or reunite you with your child due to crimes you have committed or a previous involuntary termination by a court of your parental rights to your child's brother or sister. If the court finds that you as the parent abandoned your baby without a plan to return to take care of the baby, the court may find that reasonable reunification efforts are not required.

Or, your child has been removed from you as the parent for at least 15 out of the most recent 22 months, and the Department of Child Services has been supervising the care of your child for at least 15 months.

A petition to terminate your relationship with your child is required by Indiana law if your child has been removed from you and has been under DCS supervision for 15 of the most recent 22 months. The petition to terminate your relationship with your child may be dismissed in certain situations, which are listed below.

Who can file a petition to terminate my parental rights?

The attorney for the DCS, or the CASA or Guardian ad Litem can file such a petition with the court.

Can the petition be dismissed by the Judge? Who can ask for the petition to be dismissed?

DCS or the CASA or Guardian ad Litem can file a motion to ask that the petition be dismissed.

The Judge may dismiss this petition and not terminate your rights to your child if one of the following conditions exists:

1. If the child’s case plan shows a compelling reason why termination of your parent-child relationship is not in your child’s best interest. This must be based on facts presented in writing to the Judge. This includes a situation where your child may be in the home of one of the child’s relatives (the other parent, a stepparent, a grandparent, a brother or sister, an aunt, an uncle, or other relative who is caring for the child as a guardian).
2. If the Department of Child Services has not provided services to you, your child, or the family of the child as required under a case plan or court order, in order to permit your child to be safely returned to you; and the case plan or court order time period has not expired.
3. If the Department of Child Services has not provided services to you, your child, or the family of the child; and those services are necessary to carry out the plan to safely return your child to you.

What can I do to defend myself if I want to keep my rights?

If you disagree with the petition to terminate your relationship with your child, you have the right to be represented by a free court appointed attorney in the court hearings about the petition to terminate your parent-child relationship. An attorney must be provided unless you waive your right to an attorney. If you want to defend yourself against the petition, you need to have an attorney to present your side of the case.

Be sure to meet with your attorney and give him or her all the information you have about what you have done to try to improve your parenting and to get your child back.

What happens next?

You will receive a notice of the petition being filed and the court date that is set for the hearing. Be sure that you have a copy of the petition. Request an attorney when you receive the petition. The hearing must begin within 90 days after the petition is filed and must be completed within 180 days after the petition is filed. You have the right to subpoena witnesses, to present evidence, and to cross-examine witnesses. Your attorney should represent you in these activities. Keep your attorney informed about your current address and phone number.

Before your relationship with your child can be terminated, the Judge has to decide that the evidence is “clear and convincing” that your relationship should be legally ended. If the Judge finds this to be true, he or she will order that your relationship with your child is terminated and will make your child available to be adopted by another person or persons.

If the Judge finds that the evidence is not “clear” or

“convincing” that your relationship with your child should be terminated, then your rights to have a relationship with your child continue. In this situation, you continue to have the same rights and responsibilities that you had before the petition to terminate your parent-child relationship was filed with the court.

If you wish to appeal the Judge’s decision to terminate your parental rights, you have the right to have a court appointed attorney to represent you on your appeal. In order to be eligible for this right, you must cooperate with your attorney who represented you at the termination trial and keep your attorney informed about your address and your wish for an appeal in order to have an attorney appointed to represent you on your appeal. The appeal process must begin 30 days after the Judge signs the order which terminates your parental rights.

CASE CLOSURE

Your child’s case will be closed after the permanency plan is completed and the court decides that to close the case is in your child’s best interests. Most often, the DCS will file a motion with the court to discharge the child from supervision by the DCS. The motion will say that the objectives of the dispositional decree have been met and that the court’s intervention is no longer required.

If your child has been returned to you, be sure that you ask the family case manager about any services that you may need in the future to prevent the same problems from happening again. Your child may be eligible for benefits such as health insurance under Hoosier Healthwise, and you may be eligible to receive Temporary Assistance to Needy Families, food stamps, or other community services. While you may not need such services at this time, it is good to know how you can access the services in the future if you need them.