

	<b>INDIANA DEPARTMENT OF CHILD SERVICES</b> <b>CHILD WELFARE POLICY</b>	
	<b>Chapter 3: Hotline</b> <b>Section 08: Statutory Definition of Child Abuse and/or Neglect (CA/N)</b>	
	<b>Effective Date:</b> July 1, 2024	<b>Version:</b> 11

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## POLICY OVERVIEW

Determining whether allegations meet the statutory definition of Child Abuse and/or Neglect (CA/N) requires a careful, balanced assessment of both objective and subjective information, with the paramount consideration being the safety, permanency, stability, and well-being of the alleged child victim.

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## PROCEDURE

The Indiana Department of Child Services (DCS) will use the following criteria when evaluating a Preliminary Report of Alleged Child Abuse or Neglect (310) to determine if the allegations meet the statutory definition for CA/N:

1. The alleged victim is under 18 years of age and the alleged perpetrator's relationship to the alleged victim is that of parent, guardian, or custodian; or

**Note:** For allegations involving sexual abuse, the perpetrator may have **any** or **no** relationship to the child.

2. The alleged victim is at least 18 years of age but less than 21 years of age and resides or has previously resided at a DCS-licensed residential facility and the alleged perpetrator's relationship to the alleged victim is that of a staff member at the DCS-licensed residential facility who committed an alleged battery offense or sexual activity offense against the alleged victim; and
3. The allegations would cause a reasonable person to believe that CA/N has occurred.

Indiana law includes the following Child in Need of Services (CHINS) definitions as the basis for CA/N for a victim under the age of 18. This list is intended to be used by DCS at intake, in conjunction with the Indiana Department of Child Services Child Abuse and Neglect Screening and Response Time Assessment (SDM Tool), as a parameter to determine whether a reporter's allegations would indicate that CA/N has occurred:

- CHINS 1: The child's physical or mental condition is seriously impaired or seriously endangered as a result of the inability, refusal, or neglect of the child's parent, guardian, or custodian to supply the child with necessary food, clothing, shelter, medical care, education, or supervision:
- (A) when the parent, guardian, or custodian is financially able to do so; or
  - (B) due to the failure, refusal, or inability of the parent, guardian, or custodian to seek financial or other reasonable means to do so.

CHINS 2: The child's physical or mental health is seriously endangered due to an injury by the act or omission of the parent, guardian, or custodian.

The child is a victim of assisting suicide (IC 35-42-1-2.5); battery (IC 35-42-2-1); domestic battery (IC 35-42-2-1.3); aggravated battery (IC 35-42-2-1.5); strangulation (IC 35-42-2-9); female genital mutilation (IC 35-42-2-10); neglect of a dependent, child selling (IC 35-46-1-4); and the offense was committed by the parent, guardian, or custodian of the child.

The child lives in the same household as an adult who committed and has been convicted of, or has been charged with committing an offense and is awaiting trial for, any of the following offenses against another child who lives in the household: assisting suicide (IC 35-42-1-2.5); battery (IC 35-42-2-1); domestic battery (IC 35-42-2-1.3); aggravated battery (IC 35-42-2-1.5); strangulation (IC 35-42-2-9); neglect of a dependent, child selling (IC 35-46-1-4); murder (IC 35-42-1-1), causing suicide (IC 35-42-1-2), voluntary manslaughter (IC 35-42-1-3), involuntary manslaughter (IC 35-42-1-4), or reckless homicide (IC 35-42-1-5); or attempt (IC 35-41-5-1) or conspiracy (IC 35-41-5-2) to commit any of the listed offenses (IC 1-1-2-4).

The child lives in a home where there is evidence that the illegal manufacture of a drug or controlled substance that is occurring on the property where the child resides.

CHINS 3: The child is a victim of Rape (IC 35-42-4-1); Criminal Deviant Conduct (IC 35-42-4-2) (before its repeal); Child Molesting (IC 35-42-4-3); Child Exploitation (IC 35-42-4-4); Possession of Child Pornography (IC 35-42-4-4); Vicarious Sexual Gratification (IC 35-42-4-5); Child Solicitation (IC 35-42-4-6); Child Seduction (IC 35-42-4-7); Sexual Battery (IC 35-42-4-8); Sexual Misconduct with a Minor (IC 35-42-4-9); Public Indecency (IC 35-45-4-1); Prostitution (IC 35-45-4-2); Patronizing a Prostitute (IC 35-45-4-3); Promoting Prostitution (IC 35-45-4-4); or Incest (IC 35-46-1-3).

The child is living in a household with an adult who has been charged and is awaiting trial, who has been convicted of, or has resulted in a conviction or judgment under IC 31-34-11-2 for Rape (IC 35-42-4-1); Criminal Deviant Conduct (IC 35-42-4-2) (before its repeal); Child Molesting (IC 35-42-4-3); Child Exploitation (IC 35-42-4-4); Possession of Child Pornography (IC 35-42-4-4); Vicarious Sexual Gratification (IC 35-42-4-5); Child Solicitation (IC 35-42-4-6); Child Seduction (IC 35-42-4-7); Sexual Battery (IC 35-42-4-8); Sexual Misconduct with a Minor (IC 35-42-4-9); Public Indecency (IC 35-45-4-1); Prostitution (IC 35-45-4-2); Patronizing a Prostitute (IC 35-45-4-3); Promoting Prostitution (IC 35-45-4-4); or Incest (IC 35-46-1-3); or attempt (IC 35-41-5-1) or conspiracy (IC 35-41-5-2) to commit any of the listed offenses (IC 1-1-2-4).

The child lives in the same household as another child who was a victim of Rape (IC 35-42-4-1); Criminal Deviant Conduct (IC 35-42-4-2) (before its repeal); Child Molesting (IC 35-42-4-3); Child Exploitation (IC 35-42-4-4); Possession of Child Pornography (IC 35-42-4-4); Vicarious Sexual Gratification (IC 35-42-4-5); Child Solicitation (IC 35-42-4-6); Child Seduction (IC 35-42-4-7); Sexual Battery (IC 35-42-4-8); Sexual Misconduct with a Minor (IC 35-42-4-9); Public Indecency (IC 35-

45-4-1); Prostitution (IC 35-45-4-2); Patronizing a Prostitute (IC 35-45-4-3); Promoting Prostitution (IC 35-45-4-4); or Incest (IC 35-46-1-3).

A child lives in the same household as an adult who committed an offense that resulted in a conviction or a judgment under IC 31-34-11-2, or has been charged with and is awaiting trial for Promotion of Human Labor Trafficking (35-42-3.5-1); Promotion of Human Sexual Trafficking (IC 35-42-3.5-1.1); Promotion of Child Sexual Trafficking (IC 35-42-3.5-1.2); Child Sexual Trafficking (IC 35-42-3.5-1.3); Child Sexual Trafficking (IC 35-42-3.5-1.4) or attempt (IC 35-41-5-1) or conspiracy (IC 35-41-5-2) to commit any of the listed offenses (IC 1-1-2-4).

- CHINS 3.5: The child is a victim of a human or sexual trafficking including a child who is recruited, harbored, transported, or engaged in forced labor, involuntary servitude, prostitution, juvenile prostitution (IC 35-31.5-2-178.5), child exploitation (IC 35-42-4-4(b)), marriage (unless authorized by a court under IC 31-11-1-7); trafficking for the purpose of prostitution, juvenile prostitution, or participation in sexual conduct as defined in IC 35-42-4-4(a); or human trafficking as defined in IC 35-42-3.5-0.5 (IC 31-9-2-133.1). A child is considered a victim of human or sexual trafficking regardless of whether the child consented to the conduct as defined.
- CHINS 4: The child's parent, guardian, or custodian allows the child to participate in an obscene performance (IC 35-49-2-2 or 35-49-3-2).
- CHINS 5: The child's parent, guardian, or custodian allows the child to commit a prohibited sex offense (see 3.B Tool Sexual Offense Child Abuse and/or Neglect [CA/N] Matrix).
- CHINS 6: The child substantially endangers the child's own health or the health of another individual.
- CHINS 7: The child's parent, guardian, or custodian fails to participate in a school disciplinary proceeding regarding the child's improper behavior (described in IC 20-33-8-26) that has been repeatedly disruptive in the school.

**Note:** CHINS 6 and CHINS 7 are not defined as Child Abuse or Neglect under IC 31-9-2-14 but are conditions under which a child is a Child in Need of Services. CHINS 6 and CHINS 7 allegations do not qualify as Child Abuse or Neglect for purposes of entering information on the Child Protective Index (CPI).

- CHINS 8: The child is a "missing child".

**Note:** This is a child who is the subject of a missing person's report and has been found in Indiana.

- CHINS 9: According to IC 31-34-1-9, a child in need of services under CHINS 1, 2, 3, 4, 5, 6, 7, or 8 (as outlined above) includes a child with a disability who is deprived of:
- 1) Nutrition that is necessary to sustain life; or
  - 2) Medical or surgical intervention that is necessary to remedy or ameliorate a life-threatening medical condition; if the nutrition or medical or surgical

intervention is generally provided to similarly situated children with or without disabilities.

CHINS 10: The child is born with fetal alcohol syndrome, neonatal abstinence syndrome, or with any amount of controlled substance, a legend drug or a metabolite of a controlled substance or legend drug in the child's body, including the child's blood, urine, umbilical cord tissue, or meconium.

CHINS 11: The child has an injury, an abnormal physical or psychological development, has symptoms of neonatal intoxication or withdrawal, or is at substantial risk of a life-threatening condition that arises or is substantially aggravated by the mother's use of alcohol, controlled substance, or legend drug during pregnancy.

Indiana law includes the following definitions as the basis for CA/N for a child who is at least 18 years of age but less than 21 years of age who resides or has previously resided in a DCS-licensed residential facility. This list is intended to be used by DCS at intake, in conjunction with the Indiana Department of Child Services Child Abuse and Neglect Screening and Response Time Assessment (SDM Tool), as a parameter to determine whether a reporter's allegations would indicate that CA/N has occurred:

1. A child is harmed or threatened with harm as a result of a battery offense relating to: battery (IC 35-42-2-1); domestic battery (IC 35-42-2-1.3); aggravated battery (IC 35-42-2-1.5); strangulation (IC 35-42-2-9); female genital mutilation (IC 35-42-2-10); or
2. A child is an alleged victim of the following offenses where the alleged perpetrator's relationship to the child is that of a staff member at the DCS-licensed residential facility: sexual intercourse; other sexual conduct (IC 35-31.5-2-221.5); or the fondling or touching of the buttocks, genitals, or female breasts (IC 35-42-4-13(b)).

The Hotline Intake Specialist (IS) will:

1. Complete the 310 in the case management system by:
  - a. Thoroughly screening each individual named in the case management system,
  - b. Determining if the allegations meet the statutory definition of CA/N by filling out the SDM Tool,
  - c. Determining the appropriate response time for the assessment to be initiated,

**Note:** The case management system may automatically assign a response time that the IS may need to expedite upon determination.

- d. Recommending the report be routed to the DCS local office for assessment.
2. Forward the CA/N intake report in the case management system to the Hotline Intake Supervisor to be routed to the DCS local office.

The Hotline Intake Supervisor will:

1. Review the CA/N intake report as soon as possible but, not to exceed 24 hours;

**Note:** At the discretion of DCS Hotline management, the Hotline Intake Supervisor's review of any intake report may be bypassed.

2. Ensure the allegations meet the statutory definition of CA/N; and

**Note:** An IS' recommendation to "assign for assessment" may be overturned by the Hotline Intake Supervisor if the reported allegations do not meet the statutory definition of CA/N. Also, the IS' recommendation to "screen-out" a report may be overturned by the Hotline Intake Supervisor if the allegations meet the statutory definition of CA/N.

3. Assign the report to the appropriate DCS local office if the decision is "assign for assessment".

**Note:** Upon thorough review, the final recommendation regarding whether a report will be "assigned for assessment" or "screened-out" will be made at the DCS local office level; unless the report contains allegations of a new child in a household of a parent or caregiver with an open DCS case, in which case the final recommendation must remain "assessment". See policy 3.05 Supervisory Review of Child Abuse or Neglect (CA/N) Intake Report and Chapter 4 - Assessment for additional information on completing assessments.

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## RELEVANT INFORMATION

### Definitions

#### Coercive Intervention

Coercive intervention is the inability or unwillingness of the parent, guardian, or custodian to provide needed supervision and/or services for a child without a court order.

#### Custodian

A custodian is any person with whom a child resides or any of the following:

1. A license applicant or licensee of:
  - a. A foster home or residential child care facility that is required to be licensed or is licensed under IC-31-27,
  - b. A child care center that is required to be licensed or is licensed under IC 12-17.2-4, or
  - c. A child care home that is required to be licensed or is licensed under IC 12-17.2-5.
2. A person who is responsible for the care, supervision, or welfare of children while providing services as an owner, director, manager, supervisor, employee, or volunteer at:
  - a. A home, center, or facility described in one (1) above,
  - b. A child care ministry, as defined in IC 12-7-2-28.8, that is exempt from licensing requirements and is registered or required to be registered under IC 12-17.2-6,
  - c. A home, center, or facility of a child care provider, as defined in IC 12-7-2-149.1(4), or
  - d. A home, center, or facility which is the location of a program that provides child care, as defined in section 16.3 of this Indiana Code, to serve migrant children and is exempt from licensing under IC 12-17.2-2-8(6), whether or not the program is certified as described in IC 12-17.2-2-9.
3. A school;
4. A child caregiver who is a person who provides, or is responsible for providing, care and supervision of a child (other than a child of whom the person is a parent, stepparent, grandparent, aunt, uncle, sibling, legal guardian or custodian with whom the person resides) at a residential property that is not the child's place of residence, if the person is

not required to be licensed and cares for the child without the presence of the child's parent, guardian, or custodian and receives more than \$2,000 annually in compensation for supervising children;

5. A member of the household of the child's noncustodial parent; or
6. An individual who has or intends to have direct contact, on a regular and continuing basis, with a child for whom the individual provides care and supervision.

#### Emotional Injury

Emotional injury occurs when a child has an observable, identifiable, and substantial impairment of the mental or psychological ability to function as a result of an act or failure to act by a parent, caregiver, or household or family member. See the SDM Tool for additional information on emotional injury.

#### Legend Drug

As defined in IC 31-9-2-76, a legend drug is a drug approved by the United States (U.S.) Food and Drug Administration that can be dispensed to the public only with a prescription from a medical doctor or other licensed practitioner.

#### Controlled Substance

As defined in IC 31-9-2-24, a controlled substance is generally a drug or chemical whose manufacture, possession, and use is regulated by a government, such as illicitly used drugs or prescription medications that are designated by law. These substances are listed on Schedules I-V (IC 35-48-2).

#### Guardian

A guardian is a person appointed by a court to have the care and custody of a child and/or the child's estate.

#### Parent

A parent is a child's biological or adoptive mother or father or alleged father.

#### Rebuttable Presumption

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

#### **Forms and Tools**

- [3.B Tool Sexual Offense Child Abuse and/or Neglect \(CA/N\) Matrix](#)
- [Indiana Department of Child Services Screening and Response Time Assessment \(SDM Tool\)](#)
- Preliminary Report of Alleged Child Abuse or Neglect (SF 114) (310) - available in the case management system

#### **Related Policies**

- [3.05 Supervisory Review of Child Abuse or Neglect \(CA/N\) Intake Report](#)
- [Chapter 4 - Assessment](#)

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## LEGAL REFERENCES

- [IC 1-1-2-4: Construction of references to a conviction](#)
- [IC 12-7-2-28.6: "Child care home"](#)
- [IC 12-7-2-28.8: "Child care ministry"](#)
- [IC 12-7-2-149.1: "Provider"](#)
- [IC 12-17.2-2-8: Licensure exemptions](#)
- [IC 12-17.2-2-9: Migrant children's programs](#)
- [IC 12-17.2-4: Chapter 4. Regulation of Child Care Centers](#)
- [IC 12-17.2-5: Chapter 5. Regulation of Child Care Homes](#)
- [IC 12-17.2-6: Chapter 6. Regulation of Child Care Ministries](#)
- [IC 20-33-8-26: Rules requiring participation in disciplinary action by person caring for dependent student](#)
- [IC 31-9-2-13: "Child"](#)
- [IC 31-9-2-14: "Child abuse or neglect"](#)
- [IC 31-9-2-16.4: "Child caregiver"](#)
- [IC 31-9-2-24: "Controlled substance"](#)
- [IC 31-9-2-31: "Custodian"](#)
- [IC 31-9-2-76: "Legend drug"](#)
- [IC 31-9-2-133: "Victim of child abuse or neglect"](#)
- [IC 31-9-2-133.1: "Victim of human or sexual trafficking"](#)
- [IC 31-11-1-7: Petition for marriage of individual 16 or 17 years of age; evidentiary hearing; emancipation](#)
- [IC 31-27: ARTICLE 27. CHILD SERVICES; REGULATION OF RESIDENTIAL CHILD CARE](#)
- [IC 31-27-4: Chapter 4. Regulation of Foster Homes](#)
- [IC 31-33-8-1: Investigations by the department of child services; time of initiation; investigations of child care ministries](#)
- [IC 31-34-1: Chapter 1. Circumstances Under Which a Child Is a Child in Need of Services](#)
- [IC 31-34-11-2: Judgment, order of predisposition report; scheduling of dispositional hearing; dual status assessment team report and recommendations](#)
- [IC 35-31.5-2-178.5: "Juvenile prostitution"](#)
- [IC 35-31.5-2-221.5: "Other sexual conduct"](#)
- [IC 35-41-5-1: Attempt](#)
- [IC 35-41-5-2: Conspiracy](#)
- [IC 35-42-1-1: Murder](#)
- [IC 35-42-1-2: Causing suicide](#)
- [IC 35-42-1-2.5: Assisting suicide](#)
- [IC 35-42-1-3: Voluntary manslaughter](#)
- [IC 35-42-1-4: Involuntary manslaughter](#)
- [IC 35-42-1-5: Reckless homicide](#)
- [IC 35-42-2: Chapter 2. Battery and Related Offenses](#)
- [IC 35-42-2-1: Battery](#)
- [IC 35-42-2-1.3: Domestic battery](#)
- [IC 35-42-2-1.5: Aggravated battery](#)
- [IC 35-42-2-9: Strangulation](#)
- [IC 35-42-2-10: Female genital mutilation](#)
- [IC 35-42-3.5-0.5: Definitions](#)
- [IC 35-42-3.5-1: Promotion of human labor trafficking](#)

- [IC 35-42-3.5-1.1: Promotion of human sexual trafficking](#)
- [IC 35-42-3.5-1.2: Promotion of child sexual trafficking; promotion of sexual trafficking of a younger child](#)
- [IC 35-42-3.5-1.3: Child sexual trafficking](#)
- [IC 35-42-3.5-1.4: Human trafficking](#)
- [IC 35-42-4-1: Rape; restitution](#)
- [IC 35-42-4-2: Criminal deviant conduct \(Repealed 2012\)](#)
- [IC 35-42-4-3: Child molesting](#)
- [IC 35-42-4-4: Child exploitation; possession of child pornography; exemptions; defenses](#)
- [IC 35-42-4-5: Vicarious sexual gratification; sexual conduct in presence of a minor](#)
- [IC 35-42-4-6: Child solicitation](#)
- [IC 35-42-4-7: Child seduction](#)
- [IC 35-42-4-8: Sexual battery](#)
- [IC 35-42-4-9: Sexual misconduct with a minor](#)
- [IC 35-42-4-13\(b\): Inappropriate communication with a child](#)
- [IC 35-45-4-1: Public indecency](#)
- [IC 35-45-4-2: Prostitution](#)
- [IC 35-45-4-3: Making an unlawful proposition](#)
- [IC 35-45-4-4: Promoting prostitution](#)
- [IC 35-46-1-3: Incest](#)
- [IC 35-46-1-4: Neglect of a dependent; child selling](#)
- [IC 35-49-2-2: Matter or performance harmful to minors](#)
- [IC 35-49-3-2: Obscene performance](#)

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## PRACTICE GUIDANCE- DCS POLICY 3.08

*Practice Guidance is designed to assist DCS staff with thoughtful and practical direction on how to effectively integrate tools and social work practice into daily case management in an effort to achieve positive family and child outcomes. Practice Guidance is separate from Policy.*

### **Child Care Home**

DCS assesses all child care homes (as defined in IC 12-7-2-28.6) whether licensed, unlicensed, or operating illegally without a license (see policy 4.30 Conducting Institutional Investigations by the Institutional Child Protection Services [ICPS] Unit).

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