

	INDIANA DEPARTMENT OF CHILD SERVICES CHILD WELFARE POLICY	
	Chapter 6: Court	Effective Date: November 1, 2020
	Section 3: Fact-Finding Hearing	Version: 5

STATEMENTS OF PURPOSE

The Indiana Department of Child Services (DCS) will proceed to a Child in Need of Services (CHINS) [Fact-Finding Hearing](#) when either parent or another named party contests the facts alleged in the DCS CHINS Petition.

DCS will provide notice of any Fact-Finding Hearing to all parties to the case and the resource parent or other caretaker with whom the child has been placed for temporary care. See policy [6.4 Providing Notice](#) for further details.

DCS will request separate hearings for the parents, guardians, or custodians when appropriate due to safety concerns and will protect the confidentiality of information shared during court proceedings. See [Practice Guidance](#) for examples.

Code References

1. [IC 31-33-26-15: Expungement and amendment of record procedures](#)
2. [IC 31-34-1-1: Inability, refusal, or neglect of parent, guardian, or custodian to supply child with necessary food, clothing, shelter, medical care, education, or supervision](#)
3. [IC 31-34-10-6: Admission or denial of allegations by parent, guardian or custodian](#)
4. [IC 31-34-10-9: Dispositional hearing, factfinding hearing: consent](#)
5. [IC 31-34-11-1: Hearing requirements: extension of time: notice: opportunity to be heard](#)

PROCEDURE

The Family Case Manager (FCM) will:

1. Obtain the date, time, and location of the [Fact-Finding Hearing](#) from the DCS Staff Attorney;

Note: The [Fact-Finding Hearing](#) will be held within 60 calendar days from the date the CHINS petition was filed or the CHINS case will be dismissed by the Court. A pretrial conference may be ordered by the court, and under some limited circumstances an additional 60 calendar days is allowed. See [Related Information](#) for further details.

2. Meet with the DCS Staff Attorney to prepare to for the [Fact-Finding Hearing](#). (e.g., prepare to testify and assist the attorney in gathering information, exhibits, and a list of witnesses);
3. Request separate hearings be held for the alleged domestic violence victim and alleged domestic violence offender, when appropriate;

4. Attend the scheduled hearing;

Note: If Reasonable Efforts to Prevent Removal (RE) or Responsibility for Placement and Care (PC) findings are issued for the first time at this hearing, ensure the information is entered in the case management system. See policy [15.1 Eligibility Overview for Field and Legal Staff](#) for further details.

5. Enter court hearing data and any future hearings scheduled in the case management system; and

Note: If the court determines the child is a CHINS, the case will proceed to the appropriate hearing. If the court determines the child is not a CHINS, the case will be dismissed.

6. If the court determines that the child is not a CHINS, consult with the DCS Staff Attorney and FCM Supervisor to determine if action is needed regarding any substantiation based on the same facts and circumstances as the [Fact-Finding Hearing](#).

The FCM Supervisor will:

1. Assist the FCM, whenever necessary, to ensure all [Fact-Finding Hearing Requirements](#) have been met. See policy [6.4 Providing Notice](#) for additional information;
2. Assist the DCS Staff Attorney with hearing preparation, including ensuring the FCM is prepared to provide testimony during the [Fact-Finding Hearing](#);
3. If the court determines the child is not a CHINS, consult with the DCS Staff Attorney and FCM to determine if action is needed regarding any substantiation based on the same facts and circumstances as the [Fact-Finding Hearing](#); and
4. Ensure all decisions and steps taken are documented in the case management system.

The DCS Staff Attorney will:

1. Meet with the FCM to ensure all parties have a comprehensive understanding of the case and any relevant information about the case that has occurred since the filing of the Petition;

Note: The attorney is responsible for contacting the FCM to establish communication and coordinate planning for the trial.

2. If the court determines the child is not a CHINS, meet with the FCM and FCM Supervisor to review any substantiation based on the same facts as the [Fact-Finding Hearing](#) to determine if a reversal is warranted. If the only basis for the court's determination that the child is not a CHINS is a failure to prove coercive intervention of the court is necessary and the court clearly makes that finding in its order or on the record, then the substantiation may not need to be reversed; and

Note: Any reversal must occur within 10 business days of the fact finding decision being issued [IC 31-33-26-15](#).

3. Appropriately prepare for the [Fact-Finding Hearing](#), including preparing witnesses to testify, if needed.

PRACTICE GUIDANCE

Preparation for the Fact-Finding Hearing

The FCM and Staff Attorney should meet a minimum of 10 days prior to the [Fact-Finding Hearing](#) for preparation. This meeting allows the FCM to update the attorney regarding case specifics and suggest possible witnesses. In addition, the Staff Attorney should prepare the FCM to testify at the [Fact-Finding Hearing](#). The FCM and Staff Attorney may need to meet multiple times to prepare for the hearing. New pertinent information obtained by the FCM about the case should be communicated by the FCM to the Staff Attorney as soon as reasonably possible.

Protecting Confidentiality When Domestic Violence is Involved

DCS should protect the confidentiality of information shared during court proceedings and the safety of the non-offending parent. This may include, but is not limited to:

1. Presenting addresses and contact information for the parent who is an alleged victim of domestic violence in a [sidebar](#);
2. Requesting that confidential information regarding the parent who is an alleged victim of domestic violence not be read aloud in the court room;
3. Requesting that security escort the parent who is an alleged victim of domestic violence and/or alleged domestic violence offender in and out of the court room and to the alleged victim's or alleged offender's vehicle, if necessary; and/or
4. Requesting that service providers redact their service reports prior to providing a copy to the alleged domestic violence offender.

FORMS AND TOOLS

1. [Tool 6.B: Statutory Definition of CHINS](#)
2. [Affidavit of Diligent Inquiry \(ADI\) \(SF 54778\)](#) – Available in the case management system

RELATED INFORMATION

Fact-Finding Hearing

The Fact-Finding Hearing is the setting in which DCS must prove that the condition of the child is as set forth in the Indiana Code (IC) under [IC 31-34-1-1](#) through [IC 31-34-1-11](#). DCS must show the situation meets one (1) or more of the CHINS definitions and that coercive intervention of the court is necessary to protect the child. See [Tool 6.B: Statutory Definition of CHINS](#) for further details.

Fact-Finding Hearing Requirements

The juvenile court will complete a [Fact-Finding Hearing](#) not more than 60 calendar days after a petition alleging that a CHINS is filed. The juvenile court may extend the time to complete a Fact-Finding Hearing for an additional 60 calendar days if all parties in the action consent to the additional time.

If the [Fact-Finding Hearing](#) is not held immediately after the Detention and Initial Hearing, DCS will provide notice of any [Fact-Finding Hearing](#) to each party and resource parent or other caretaker with whom the child has been placed for temporary care unless the court provided written notice at a previous hearing. The court will provide each person who is required to be notified an opportunity to be heard at the [Fact-Finding Hearing](#).

Sidebar

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

Ex Parte Communication

Ex parte communication is any written or verbal communication about the case between a judge and any persons interested in the outcome of a case, including placement and/or relatives, which occurs outside of the presence of the other parties or attorneys on a case.

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