

	<b>INDIANA DEPARTMENT OF CHILD SERVICES CHILD WELFARE MANUAL</b>	
	<b>Chapter 4:</b> Assessment	<b>Effective Date:</b> January 1, 2009
	<b>Section 28:</b> Involuntary Removals	<b>Version:</b> 3

<b>POLICY</b>
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The Indiana Department of Child Services (DCS) will remove a child from his or her parent, guardian, or custodian if:

1. A reasonable person would believe that the child's physical or mental condition is seriously impaired or seriously endangered due to injury by the act or omission of the child's parent, guardian or custodian. or
2. 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; and
3. The coercive intervention of the court is needed (taken) to protect the child.

The Family Case Manager (FCM) will obtain Supervisory approval prior to removing any child from their parent, guardian, or custodian.

DCS will obtain a written order from the court prior to removing a child, unless emergency removal is necessary to protect the immediate health and safety of the child. Emergency removal may be necessary if all of the following factors are present:

1. It appears that the child's physical or mental condition is seriously impaired or seriously endangered if the child is not immediately taken into custody;
2. There is not a reasonable opportunity to obtain an order of the court; and
3. Consideration for the safety of the child precludes the immediate use of family services to prevent removal of the child.

DCS will not remove a child without a Law Enforcement Agency (LEA) present, unless:

1. Emergency removal is necessary; and
2. LEA has been contacted, and considering the immediate concern for the safety or well-being of the child, is unable to be present during the removal.

If DCS removes a child without a court order and/or LEA present, DCS will document the reasons why such measures were necessary.

DCS will secure a detention hearing within 48 hours of detention of the child, excluding Saturdays, Sundays, and certain legal holidays.

Code References

1. [IC 31-33-8-8: Immediate removal of a child](#)
2. [IC 31-34-2-3: Taking a child into custody without court order](#)
3. [IC 31-34-2-6 Documentation by person taking child into custody without court order; forms](#)
4. [IC 31-34-4: Temporary placement of child taken Into custody](#)

## PROCEDURE

The FCM will:

1. Obtain supervisory approval prior to removal of any child from their parent, guardian, or custodian;
2. Obtain a court order authorizing the removal, unless emergency removal is necessary;
3. Request LEA presence at the removal;
4. To the extent the parent will cooperate, obtain information about the child in order to make the transition for the child as easy and as safe as possible;
5. Prepare the child for removal;
6. If the child's parent, guardian, or custodian was not present at the time of removal, notify the parent, guardian, custodian within two (2) hours of the child's detention, and provide the parent, guardian, or custodian with the [Advisement of Legal Rights: Upon Taking Custody of/Filing a Petition on Behalf of a Child Alleged to be a Child in Need of Services \(SF 47114\)](#);
7. Complete the form [Taking Custody of a Child Without a Verbal or Written Court Order: Description of Circumstances \(SF 49584/CW0018\)](#) to document why the child was removed without a court order and/or without LEA presence, if such extreme measures were taken;
8. Schedule a detention hearing;
9. **[NEW]** At a detention hearing, Initial court order language must include Contrary to the Welfare/Best Interests of the child, Reasonable Efforts to Prevent Placement and Placement and Care responsibility to DCS;
10. Provide parent, guardian, or custodian with advance written notification of the detention hearing, using the [Notice of Hearing](#) form; and
11. File a child in need of services (CHINS) petition; See separate policy, [6.2 Filing a CHINS Petition](#).

## RELATED INFORMATION

### **Preparing the Child for Removal**

See related policy, [8.8 Preparing Child for Placement](#).

Prepare the child for separation to the extent possible and for coping with placement after it occurs.

1. Help the child talk about feelings and concerns; don't minimize;
2. Accept the feelings of the child;
3. Answer questions in a way the child comprehends;
4. Do not provide answers unless you are certain; it is better to say "I don't know" than to provide false information. Do not say "everything will be fine;"
5. Check with the child to see what he or she understands or is confused about. Ask the child to explain in his/her own words;
6. Elicit the parent or guardian's help in giving permission to the child to leave and assuring the child of their continued love;
7. Take familiar objects, i.e., clothes, toys, bottles, cups, music tapes, photos of the parent(s), guardian, or custodian(s), unless the home is the site of a meth lab. See [Indiana Drug Endangered Child Response Protocol](#);
8. Give the child permission to miss his/her family; and
9. Provide for physical and emotional comfort.

### **[NEW] Eligibility for Federal Funding**

The following should be documented in the case file and in the Indiana Child Welfare Information System (ICWIS):

1. The most accurate and up to date information concerning household members;
2. The relationships of household members to the removed child;
3. Household members income and resources in the month of removal;
4. Each parent's place of residence in the month of removal;
5. Each parent's employment status; and
6. Any physical or mental illnesses that would prevent either parent from providing care to the child should be documented.

The FCM is responsible for determining which members of the household are included in the Assistance Group and which persons should be designated as the child's Specified Relative in ICWIS. This information is needed to make an eligibility determination for federal funding (Title IV-E foster care, Title IV-A Emergency Assistance, Title IV-E Waiver) to cover the costs of the child's substitute care and DCS's administrative expenditures.

### **[NEW] Assistance Group**

Individual or group of individuals whose income, resources, needs and/or expenses are considered together in the Title IV-E eligibility determination; based on living arrangement and relationship.

### **[NEW] Specified Relative**

Any blood, adoptive or step relative, including preceding generations up to the fifth degree of kinship (and any spouse of these persons, even after death or divorce) from whom a child is legally removed.

Specified relative relationships include:

1. Mother and Stepmother or Father and Stepfather;
2. Grandmother or Grandfather (Great, Great-great, Great-great-great);
3. Sister or Brother (Step, In-law);
4. Aunt or Uncle (Great, up to Great-great-great-great, In-law);
5. Niece or Nephew; and
6. First Cousin and Children of First Cousin.

## **FORMS AND TOOLS**

1. [Taking Custody of a Child Without a Verbal or Written Court Order: Description of Circumstances \(SF 49584/CW0018\)](#) – Available in ICWIS
2. [Advisement of Legal Rights: Upon Taking a Custody of/Filing a Petition on Behalf of a Child Alleged to be a Child in Need of Services \(SF 47114\)](#)
3. [Notice of Hearing – Available in the Juvenile Justice Benchbook: Child in Need of Services](#)