

judge or jury made up of members of the community. The child and his or her court appointed attorney must be present at the hearing. The child has a right to present evidence in support of his or her position, and a right to cross-examine adverse witnesses. Witnesses may include the probation officer, truant officer, parents, other school officials, and social service providers.

Nothing that the child or any other person said during informal assistance can be used against the child during the trial.

Remember that if the behavior attributed to the child is infrequent, isolated or due to no fault of the child, the child should not be a CHINS.

What happens if the judge or jury finds that the child is a Child in Need of Services?

If the judge or jury concludes that the child is a Child in Need of Services, the judge must consider the best interests of the child, including his or her emotional and physical welfare, and can do any of the following:

allow the child to remain in the custody of his or her parent or legal guardian.

place the child with a relative, probation officer, other adult or private agency who is found fit to care for the child

place the child in the care and custody of DSS. DSS will decide where the child will live, based on what the child's social worker thinks is best.

The judge's order can include any conditions and limitations, including provision of medical, psychological, psychiatric, educational, occupational or social services, and for supervision by the court clinic or public agency providing counseling or guidance services.

Is there any review process?

The case should be reviewed by a judge at least every six months to see "if the goals of the CHINS have been met." If the child believes that s/he has met the goals of the CHINS, the child must be given a chance to have a full hearing, including witnesses and documents, about how s/he has been doing for the last six months, and whether or not the issues that led to the CHINS have been resolved.

The party that wants the CHINS to continue must prove by "a preponderance of the evidence" that the goals of the CHINS have not been met, and that it would be best for the child to have more services.

The case can be heard sooner than six months if the child continues to engage in the behavior that led to the CHINS, or if the child is doing well and everyone agrees that custody should return to the guardian before six months has passed. Throughout the case, the judge can order a change in the child's placement if it seems necessary.

When can a CHINS be dismissed?

The case can be dismissed at the six-month review or sooner if the judge finds that "the objectives of the CHINS have been met." This usually means that the child can show that the behavior that prompted the CHINS has not occurred in at least a few months and that the reasons for the behavior have been addressed so it is less likely to occur in the future. If the objective of the CHINS has not been met, the CHINS will be extended for another six months for a review.

If the CHINS is for truancy, the case automatically should be dismissed when the child turns sixteen.

If the CHINS is not dismissed for any other reason, it will be dismissed when the child turns eighteen.

For more information call:

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UNITED WAY
of Massachusetts Bay**



CHILDREN'S LAW CENTER
OF MASSACHUSETTS

CHILD IN NEED OF SERVICES (CHINS)

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What is a CHINS?

A Child in Need of Services (CHINS) matter is a court case in which the Juvenile Court tries to help parents and school officials deal with troubled youth. The person filing the CHINS petition must show the judge that the child:

- regularly runs away from home; or
- constantly disobeys the commands of a parent or legal guardian; or
- misses school on a regular basis; or
- constantly fails to follow school rules.

Who may file A CHINS?

A parent or guardian may file a CHINS petition on a child who is under 17, who runs away, does not or cannot follow the rules at home.

A school district may file a CHINS petition on a child who is under 16, who is absent a lot or misbehaves at school.

The police may file a CHINS petition on a child who is under 17 and a runaway.

Once the CHINS petition is issued, it is up to the judge, not the parent or the school, to decide when to dismiss the CHINS.

What happens on the first court date?

On the first court date, the child and the parent will meet with the probation officer assigned to the case. Depending on the facts of the case and the seriousness of the situation, the child may also be assigned an attorney and appear before the judge. If the case is not too serious, the child may only meet with probation for informal assistance. Generally on this first court date the child will be asked to sign a CHINS agreement.

If the child is a runaway, the judge may grant temporary custody of the child to the Department of Social Services (DSS). If the judge does give temporary custody to DSS, DSS makes the decision about where the child will live; it may be at home, in a foster home, or at a residential program, depending on the age and needs of the child. Along with granting temporary custody to DSS, the judge can also order DSS to place the child in a setting

outside his or her home to make sure that DSS cannot decide to send the child home.

If the child was arrested by the police for failing to come to court or was arrested as a runaway, and the court finds that the child is not likely to return for the next court date, the court may impose bail or other reasonable conditions aimed at making sure the child comes to court.

Bail is a monetary amount that must be paid before the child can go home. No child can be held on bail under a CHINS for more than 15 days without returning to court. If a child is held on bail under a CHINS petition, the child cannot be locked up and held at a Department of Youth Services Detention Center (DYS). However, the judge can transfer custody of the child to DSS, and DSS will decide where the child will stay.

If the child comes to court after being arrested as a runaway, the CHINS petition will automatically be issued and the case will be scheduled for a trial.

What is a CHINS agreement?

A CHINS agreement is like a contract. The child and his or her parent meets with the probation officer to try to figure out what temporary services or rules can be put in place to help alleviate the situation that led to the CHINS. The child will be asked to sign a piece of paper agreeing to follow the listed conditions or rules. Typical CHINS agreements include conditions like attending school daily without incident, coming home by a set curfew, attending counseling, treating family members and other people with respect, and remaining drug and alcohol free.

What happens at the next court date?

At the next court hearing, the probation officer makes recommendations about the case. The probation officer can decide one of the following things:

- not to issue a petition because it looks like the child does not need services; or
- not to issue the petition because it feels that the child would be better served by informal services through the probation department; or
- to ask the judge to issue the petition and schedule the case for trial.

When the probation officer asks the judge to issue the petition, s/he will tell the judge the facts about why s/he believes that the child is a Child in Need of Services— why the child fits into one of the categories under the law. After the petition has been issued, and sometimes even before that, the child will be appointed an attorney to represent him or her in front of the judge.

What is informal assistance?

Informal assistance is used to try to resolve the problems that led to the filing of the CHINS without having the judge involved in the case. Once a child is referred to probation for informal assistance, the probation officer meets with the family and the child to discuss ways to solve the problem and to avoid going before the judge. The probation officer also decides what services the child needs to assist him or her. If the probation officer thinks that the child would be best served by having an attorney present, an attorney can be appointed. The parent or the child can also ask the probation officer to appoint an attorney to advise the child. The child is usually asked to sign another, more detailed CHINS agreement.

The services that probation can recommend include: counseling, educational services, occupational, medical, psychiatric, dental, or social services, anger management or fire safety classes, after-school or extra-curricular programs, support groups, and drug and alcohol testing. A child cannot be forced to participate in any of these activities. However, if the child does not cooperate with informal assistance, the probation officer can ask the court to issue the petition and set a date for trial.

How long will informal assistance last?

The period of informal assistance should last only for six months. This period can be extended beyond six months, but only with the consent of the child and parents.

What happens at the trial?

The trial or “hearing on the merits” is held to determine whether, beyond a reasonable doubt, the child is a Child in Need of Services as defined by law. The child has a right to a hearing in front of a