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## The Children's Law Center of Indiana

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### CHINS

9/12/2001

#### **In G.B. v. Dearborn Cty. Div. of Fam. & Child, 754 N.E. 2d 1027 (Ind. Ct. App.2001)**

In **In G.B. v. Dearborn Cty. Div. of Fam. & Child**, 754 N.E. 2d 1027 (Ind. Ct. App. 2001), the Court affirmed the trial court's finding that a reasonable effort to reunify the child with his parents was not required. The child had been removed from his parents and adjudicated a CHINS because cannabinoids were detected in his meconium stool shortly after birth. At the dispositional hearing the child was made a ward of the Dearborn County OFC with placement and visitation at their discretion. Two weeks later, the court held an additional dispositional hearing to consider whether reasonable efforts to reunify the child with his parents were required. The OFC presented evidence that the court had terminated the parents' relationship with their three other children two years previously. The court determined that reasonable efforts were not required, and the parents appealed.

**The order from the second dispositional hearing was appealable.** The OFC argued that the reasonable efforts order was not appealable, but the Court disagreed. In CHINS cases dispositional orders are appealable final judgments. *Id.* at 1029, quoting *Matter of M.R.*, 452 N.E. 2d 1085, 1089 (Ind. Ct. App. 1993). The Court concluded that the second hearing was a continuation of the first dispositional hearing and therefore was an appealable dispositional order. *Id.*

#### **I.C. 31-34-21-5.6 does not violate the Due Process Clauses of the Indiana and U.S.**

**Constitutions.** The parents argued that I.C. 31-34-21-5.6, which allows the juvenile court to determine that reasonable reunification efforts are not needed in certain specified circumstances, was unconstitutional because it violated their due process rights to family integrity. The Court enunciated the standard for construing a challenged statute which affects a fundamental right. The Court opined that under the strict scrutiny standard, a statute must serve a compelling state interest and be narrowly tailored to serve that interest. *Id.* at 1032. The Court found that the statute serves the compelling interest of the state to intervene to protect children when the parents neglect, abuse, or abandon the children. *Id.* The Court also stated that the challenged statute was narrowly tailored to include only those parents who have had at least one chance to reunify with a different child through the aid of governmental resources and have failed to do so. The challenged statute was not more intrusive than necessary to protect the welfare of children. *Id.* The Court opined that the challenged statute did not violate the parents' due process rights. *Id.* The Court stated that CHINS and termination statutes provided satisfactory safeguards to assure a full and fair hearing to parents. *Id.* at 1033.