

# Children's Law Center of Indiana



## CHINS

8/31/2018

In **Matter of A.R.**, 110 N.E.3d 387 (Ind. Ct. App. 2018), the Court reversed the trial court's finding that the children were CHINS, holding that while the juvenile court had jurisdiction to enter a CHINS determination, there was not sufficient evidence supporting the trial court's CHINS determination.

Mother and Father have five children who were the subject of a CHINS-like petition against both Mother and Father in North Carolina in 2014. The case resolved in 2016 when Mother was awarded custody of all five children. Mother moved to Indiana with two of the children (A.R. and H.R.) in 2017, leaving the other three in Father's care. Shortly after her arrival in Indiana, a CHINS petition was filed in Indiana for neglect of A.R. and H.R., and the children were placed in foster care. Placement with father was investigated, but the 2014 CHINS-like issues were still open regarding Father, and Indiana DCS was not satisfied that placement was appropriate. Throughout the course of the case, the North Carolina Department of Social Services ("NCDSS") resolved the outstanding CHINS-like issues with Father, ultimately recommending his home for placement. NCDSS provided testimony and reports to Indiana DCS and others on the case that Father was mostly compliant with services, having clean drug screens, and was deemed an appropriate placement for his other three children. Despite this, DCS and the trial court denied the GAL's request for placement of A.R. and H.R. with Father, and found the children CHINS. Father argued on appeal that the Indiana juvenile court did not have jurisdiction to enter a CHINS adjudication, and that the evidence was insufficient to support the adjudication.

**Under the facts of this case, the juvenile court had jurisdiction under the UCCJA to conduct CHINS proceedings.** *Id.* at 399. The Court noted that in when determining whether jurisdiction was properly exercised, it must apply an abuse of discretion standard. *Id.* at 397-98. The UCCJA, found at IC 31-21-5, is the method by which jurisdiction is determined in matters involving custody matters across states. *Id.* at 398. Although a CHINS case is not a true custody dispute, prior case law indicates that when considering a CHINS case, a juvenile court must exercise its jurisdiction within the framework and policy considerations of the UCCJA. *Id.*, citing *In re Paternity of R.A.F.*, 766 N.E.2d 718 (Ind. Ct. App. 2002). The UCCJA allows for a court to exercise emergency jurisdiction under IC 31-21-5-4, which deals in part with situations where a child needs protection due to abuse or neglect. *Id.* at 399. If an Indiana court exercising jurisdiction in this manner is informed that a child custody proceeding in another court of another state, the Indiana court must immediately communicate with the other court to resolve the emergency, protect the safety of the parties and the child, and determine a period for the duration of the temporary order. *Id.*, citing IC 31-21-5-4. The Court opined that under the facts of

the case and pursuant to the UCCJA, the Indiana juvenile court had jurisdiction to permit the filing of the CHINS petition and conduct CHINS proceedings. Id. at 399. The Court noted: (1) Mother brought the children to Indiana; (2) DCS removed the children their home in Indiana because Mother was unable to care for them; (3) initial proceedings indicated Mother was using illegal substances, had exposed the children to domestic violence, was avoiding DCS and hiding one child, and claiming to be leaving the state soon; (4) at the time of the removal, Father had only supervised parenting time with the children; and (5) Mother and Father had domestic violence issues. Id. The Court also noted that when NCDSS learned of the Indiana situation, it re-opened a CHINS-type case on the three children living with Father, but not the prior cases involving the two children in Indiana. Id. Consequently, “there were not two courts in two states issuing competing orders regarding placement of these two children.” Id.

**The Court could not say that DCS proved by a preponderance of the evidence that the children needed care or treatment that was unlikely to be provided or accepted without the juvenile court’s coercive intervention.** Id. at 404. The Court opined that although Father had a history of poor decision making relating to abusing substances and domestic violence, the more recent evidence indicated that Father made many efforts to remedy these problems and become an appropriate caregiver for the children. Id. At the time of the factfinding hearing, Father was participating in all services, his home was approved by NCDSS, and there were no concerns about his ability to care for the children. Id. IC 34-31-1-1 “requires “three basic elements: that the parent’s actions or inactions have seriously endangered the child, that the child’s needs are unmet, and . . . that those needs are unlikely to be met without State coercion.” Id. at 401 (internal citations omitted). “The third element guards against unwarranted State interference in family life, reserving that intrusion for families where parents lack the ability to provide for their children, not merely where they encounter difficulty in meeting a child’s needs.” Id. The Court noted that it was crucial for courts determining whether a child was a CHINS to consider the family’s condition not just when the case was filed, but also when it is heard. Id.