

Children's Law Center of Indiana



CHINS

10/10/2018

In **Matter of T.T.**, 110 N.E.3d 441 (Ind. Ct. App. 2018), the Court held that regardless of parties' consent, I.C. 34-31-11-1 clearly requires that juvenile courts complete a factfinding hearing within one hundred twenty (120) days of the filing of a petition alleging CHINS, or the case shall be dismissed without prejudice. The Court reversed and remanded with instructions.

DCS filed a petition alleging that T.T. and M.M. were CHINS in August 2017. The factfinding hearing was begun within the sixty (60) days required by IC 34-31-11-1(a), but the parties agreed to an additional sixty days under section (b) to complete the hearing. This completion date was continued at DCS' request, and reset to January 2018, outside of the one hundred twenty (120) day deadline. At that January hearing, Mother moved to dismiss the CHINS petition, citing IC 34-31-11-1. The trial court denied her motion, and went on to find her children CHINS.

A factfinding hearing must be completed within the statutorily mandated timeframe, and to fail to do so is grounds for dismissal of the CHINS petition without prejudice; although there is the ability for the parties to agree to an extension of the original sixty day factfinding deadline, there is no further allowance beyond that. *Id.* at 443. Mother argued that the trial court erred when it denied her motion to dismiss because IC 31-34-11-1 provides in part that "(a) Except as provided in subsection (b), unless the allegations of a petition have been admitted, the juvenile court shall complete a factfinding hearing not more than sixty (60) days after a petition alleging that a child is a child in need of services is filed in accordance with IC 31-34-9. (b) The juvenile court may extend the time to complete a factfinding hearing, as described in subsection (a), for an additional sixty (60) days if all parties in the action consent to the additional time." *Id.* DCS argued that dismissal was not required because Mother agreed to the continuance that set the hearing outside the required timeframe, and because the statute did not set a "hard and fast" deadline. *Id.* The Court noted that recent case law had interpreted this statute, and concluded that the statute was plain in its meaning, and that the factfinding hearings must be completed within the required time or risk dismissal. *Id.*, citing **Matter of J.R.**, 98 N.E.3d 652, 655 (Ind. Ct. App. 2018). Consequently, it could not agree with DCS's argument that this was somehow not a set deadline. **T.T.** at 443. The Court further noted that while subsection (a) allows the extension of time, subsection (b) does not allow for any extension of time, and requires dismissal of the CHINS petition. *Id.* "This lack of allowance for an additional extension of time indicates that the General Assembly intends to require that a factfinding hearing must be completed within 120 days of the filing of a CHINS petition regardless of any act or agreements of the parties. To allow the parties to agree to dates beyond the maximum 120-day limit would

thwart the legislative purpose of timely rehabilitation and reunification of families that are subject to CHINS proceedings.” Id.