

Children in Need of Services: Eligibility and Referral

Policies and Procedures

Purpose

This document describes the eligibility, policies, and procedures associated with the referral of Children in Need of Services (CHINS) to the Human Service Zones, specifically to the CHINS Unit. Schools, law enforcement, and other stakeholders should use these policies to guide decisions on when and how to make referrals to the CHINS Unit and the protocols for doing so.

Overview of the CHINS Legal Classification

In 2021, North Dakota enacted HB 1035 to overhaul and re-structure the juvenile justice system. The legislation established three distinct legal categories for youth referrals: Delinquent, Child in Need of Protection (CHIP), and Child in Need of Services (CHINS). CHINS youth represent youth who have engaged in behavior that was previously identified as ‘unruly’ and is often known as a status offence. As part of this shift, youth who have solely committed an act which qualifies them as CHINS can no longer be cited and referred to the juvenile court. Instead, responsibility for CHINS was shifted from the juvenile courts to the Human Service Zones (Zones), specifically the CHINS Unit. The CHINS Unit is equipped to provide service connections to children and youth from the ages of 10 – 17 years.

As established in statute, CHINS eligibility includes the following criteria:

- A. Habitually, and without, justification truant from school with at least three unexcused absences in a school year
- B. Habitually disobedient of the reasonable and lawful commands of the child’s parent, guardian, or other custodian and is ungovernable or who is willfully in a situation dangerous or injurious to the health, safety, or morals of the child or others
 - Includes an offense applicable only to a child, such as breaking curfew established at the city ordinance level
- C. Underage use of tobacco by a youth over the age of 10 years and under the age of 14 years
- D. Includes a youth of their own volition running away from the location of the guardian without an intent to return and in a known and safe location

CHINS Referral Eligibility Criteria

When is a CHINS Referral NOT Appropriate?

Referring a youth to the CHINS Unit is generally NOT appropriate in the following situations:

- A. *In the case of a medical emergency:* In the case of a medical emergency, law enforcement or other stakeholders may at their discretion call 911 or transport youth directly to an appropriate

medical facility within standard protocol. A CHINS referral can be made later as deemed necessary.

- B. *If there is an immediate concern for the safety of the youth, either through self-harm or harm from others:* In the case of an immediate risk of self-harm, stakeholders should contact 911, transport youth to an appropriate emergency facility, and/or contact 988 to connect with a mobile crisis unit or other behavioral health services.
- 1) If a youth can't stay in their home because of family conflict, stakeholders can support the family with identifying temporary housing solutions to allow for time and space to resolve the crisis. Subsequently, a CHINS referral can be made by the referring entity or the shelter care facility as appropriate. For more information on using these alternatives, please see the alternative to detention decision flow chart which highlights available resources.

In instances in which there is concern of immediate harm coming to a youth from family members that is potentially more systemic in nature, law enforcement, at their discretion and within policy, first prioritize a safe placement for the youth, either through a kinship care placement or through a certified shelter care placement, and then make a CHIPS petition with the appropriate steps taken.

- C. *As a result of a behavioral health crisis or when mental health or substance use needs appear to be the primary cause of youth's behavior:* In such situations, stakeholders should contact 988 for potential referral to a Human Service Center for a mental health evaluation and/or so that a mobile crisis unit can be dispatched to youth's home to identify the need for immediate community based or residential services. Additionally, even in the case in which there is not an immediate emergency, but a behavioral health issue is seen as the primary driver for needing services, a direct referral to a human service center through 988 can be made without the need for a CHINS referral. For more information on using 988, https://www.211directory.org/st/north_dakota
- D. *If a youth has committed only a delinquent offense that necessitates a court referral and/or a delinquent offense in addition to CHINS eligible behaviors:* In these instances, law enforcement should make the determination of how to proceed with the delinquency matter in accordance with their policies and standard procedure, including whether an arrest is made, youth need to be taken into custody, and/or detention or an alternative to detention is necessary following the appropriate protocols.
- E. *If a youth is a potential victim of sex/human trafficking:* If law enforcement or another entity determines that a youth is being trafficked, or is at substantial risk of being trafficked, it should be a child protection case and sent to a human trafficking coordinator who will determine if

further follow up is needed and take the lead on case management next steps.

- F. *Unruly in-school behavior is deemed ineligible:* A youth who is committing incorrigible or ungovernable behaviors in schools are not CHINS eligible. Rather schools need to follow the appropriate reporting procedures and steps to remedy the situation before referring to Juvenile Court.

CHINS Referral Criteria

Law enforcement, schools, parents, and other stakeholders such as certified shelters or service providers can use the following eligibility criteria to determine when it is appropriate to make a CHINS referral to the CHINS Unit:

Truancy

Statute sets the baseline truancy definition as missing 3 days of school. However, schools should only make a truancy referral to the CHINS Unit if the following criteria has been met:

- A. *Youth's school absences should be systemic and substantial.* While 3 days is the minimum truancy threshold, schools should only make a CHINS referral truancy when a youth has demonstrated a sustained period of unexcused school absences.
- B. Statute requires that schools *must have attempted to address youth's truancy before making a CHINS referral.* These efforts should include but are not limited to conducting outreach to the parents or guardians, assigning the youth to work with a school counselor, and/or referring youth to programs and services in or outside of school.
- C. If a school has made the appropriate attempts and a youth continues to remain truant with no signs of progress from the interventions, schools may make a CHINS referral. Schools should document previous interventions to address youth's truancy as part of the referral process/form as described below.

Incorrigibility and Curfew Violations

It is normative adolescent behavior for youth to occasionally not follow household rules, make impulsive decisions, and not consider the consequences of their actions. Law enforcement, schools, parents, and other stakeholders should only refer youth to the CHINS Unit for this behavior when:

- A. Youth exhibit a pattern of *habitually unruly behavior over an extended period of time* (months); and
- B. Youth's behavior has the *potential to place themselves or others at risk of harm.*

Run-Aways

A run-away is defined as a youth who has been recovered and has no known imminent safety concerns. Youth whose location is unknown, or where there is still reason to believe the youth's safety is at imminent risk, should be treated as a missing youth and law enforcement will be in charge of the case until the youth's location is known and safety is established. When a youth has run away from home*, law enforcement should first establish whether there is reason to believe trafficking is a potential concern. In an instance in which there is a concern of potential trafficking, law enforcement should conduct the appropriate screening, send the CHINS Unit the police report, and if the screening results indicate, connect with a human trafficking coordinator to identify appropriate next steps.

Once an initial determination has been made that trafficking is not an immediate concern, law enforcement will work with the youth to identify an appropriate immediate safe placement. This may include, returning the youth to the home of their guardian, making a kinship care placement, or taking a youth to certified shelter care. In the event that the youth is not cooperating, law enforcement has the ability to take that youth into protective custody and take the youth to the appropriate placement.

When making the determination of whether to file a CHINS referral for a run-away, law enforcement should consider the following factors:

- A. The length of time that a youth has been gone-- has the youth been missing for a few hours post curfew or for over a day.
- B. Whether the youth has exhibited a historical pattern of running away or whether this behavior is unusual for them.
- C. Where youth may have run to, including whether they are known to associate with people who put them at risk, as well as their likelihood of returning and by when.

**Out of state runaway*

Youth from out of state is found in North Dakota

In instances in which a youth has run away from another state to North Dakota, the interstate compact supersedes CHINS legislation. As a result, these youth are the responsibility of the Court and may be detained if necessary. If law enforcement picks up a runaway from out of state, they should contact the Court to identify the appropriate steps. If a person reports an out of state runaway as a CHINS youth, the Zone's staff should contact the Courts and transfer custody of the youth to the Courts to handle all appropriate paperwork and decision making to safely return the youth to their home state.

Youth runs from North Dakota to another state

In instances in which a youth has run from North Dakota to another state, the Court shall be responsible for returning the youth to North Dakota. Court staff will be responsible for communication with the state the youth has been found in, including the completion of any related forms for extradition and

organizing the safe return of the youth to North Dakota. As part of this process, the Court is responsible for the identification of the safe housing of the youth upon return to the state. Once the youth has been returned to their placement in North Dakota, Court staff may, if they deem it necessary, make a CHINS run-away referral for services follow up.

Tobacco Use

The definition for tobacco use as a CHINS referral is only for youth over the age of 10 and under the age of 14. For youth under the age of 10, a referral can be made to CPS Intake to address concerns, if deemed necessary. For youth over the age of 14, a referral to the city attorney can be made if deemed necessary.

Referral Process

Any entity can make a CHINS referral to the Zones' CHINS unit, including law enforcement, schools, parents, shelter care sites, and service providers. Referrals may be submitted electronically to the central CHINS referral email inbox chins@nd.gov at any time and will be responded to within the identified time frames. When making a referral, the referral source should follow the following steps:

Step 1: Determine youth meets CHINS referral eligibility criteria

- A. Using the criteria detailed above, the referring entity should determine whether a CHINS referral is appropriate.
- B. If an incident occurs during non-traditional hours requiring more immediate assistance, the referring entity should follow the policies and procedures described above for situations when a CHINS referral is not appropriate. Subsequently, a CHINS referral can be completed.

Step 2: Complete the appropriate referral form

- A. The referring agency should complete the appropriate electronic referral form with the required information to the best of their ability. At this time, Zones will not accept call-in, walk-in, or any other types of referral or form from referral sources other than parents. This form can be found <https://www.nd.gov/dhs/services/childfamily/>

- 1) Parents are eligible to make a CHINS referral to the CHINS unit, and law enforcement, schools, and other entities can request families to do so in lieu of them making the referral directly. Parents also have the option to call their local Zone directly and the Zones staff will help facilitate a referral being made to the CHINS unit. In such cases, Zones staff should conduct an interview with the parent over the phone to collect the appropriate information to complete the referral form.

- B. The referral form should be submitted electronically to the CHINS unit with instructions for submission detailed on the form. The appropriate email address to send forms to is chins@nd.gov

Step 3: Acknowledgement of referral

- A. Once a referral is received, CHINS unit staff will review the information provided to make the determination of eligibility for a CHINS referral. In the event a CHINS referral is established as ineligible, staff will provide the referral source with a written justification as to the reasons for denial, and where appropriate, information on alternative appropriate services and resources. If the referral is accepted, CHINS unit staff should notify the referral source to acknowledge receipt of the referral and that it has been accepted. In both instances, staff must acknowledge receipt and communicate whether the referral meets the CHINS eligibility criteria within two business days of receiving the referral, or in the case of a youth placed in either kinship care or at a shelter, within 24 hours.
- 1) If the referral form is missing information needed by the CHINS unit to make a determination of whether the referral is appropriate, CHINS unit staff will notify the referring entity of the need for additional information within one business day. Subsequently, once the requested information is received, CHINS unit staff will communicate a decision on referral eligibility within one business day.

Completing the Referral Form

For all referrals, regardless of referral source or reason for referral, the referring entity (other than parents or law enforcement) must complete the standardized referral form. Law enforcement should submit a law enforcement report and/or CHINS referral that is inclusive of the non-school information below.

The following information must be included as part of the referral:

- The name, date of birth, and residence address of the child alleged to be in need of services.
- The names and residence addresses of the parent, guardian, or legal custodian, any other family members, or any other individuals living within the child's home.
- The name of any public institution or agency having the responsibility or ability to supply services alleged to be needed by the child.
- Reason for referral.
- Demographic information.
- Whether any of the matters required are unknown.

Specifically for any referral from a school, the referral must include the following information on efforts made by the school to address youth's truancy:

- Information which shows the school district has sought to resolve the expressed problem through all appropriate and available educational and programmatic approaches.
- The efforts made by the school to engage the parent, guardian, or legal custodian of the child in solving the problem and the results of that outreach.



Referring entities should email the completed referral form to the CHINS referral email address.

Chins@nd.gov