

# Children's Law Center of Indiana



## CHINS

03/12/2008

In **In Re T.S.**, 881 N.E.2d 1110 (Ind. Ct. App. 2008), the Court affirmed the trial court's adjudication of the child of Mother to be a CHINS. Mother had been in Larue Carter Hospital for four months pursuant to an involuntary commitment when the child was born on May 7, 2007. Mother remained there for an indefinite period of time thereafter. Mother informed DCS that she had unsuccessfully attempted to arrange an adoption of the child, but she hoped Maternal Grandmother would be able to adopt the child. DCS did not place the child with Grandmother because staff at Larue Carter expressed concerns regarding Grandmother and because Mother had spent one week in foster care as a child for undisclosed reasons. On June 1, 2007, DCS filed a CHINS petition stating that Grandmother was not an appropriate caregiver because "she had numerous substantiated CPS histories." On July 24, 2007, the trial court heard evidence to determine whether the child was a CHINS and, at the end of the hearing, found the child to be a CHINS.

**Although trial court's written "findings" consisted predominantly of boiler plate language that would not be helpful to a reviewing court and, therefore, generally would not be sufficient to permit appellate review, the Court found that it need not reverse because in this case there were few, if any, factual questions for the court to resolve. Id. at 1113.** In this regard, the Court noted that a probate court had committed Mother indefinitely to inpatient mental health treatment and, thus, Mother was unavailable to care for the child and no services the State might offer would decrease the need for someone besides Mother to care for the child. Accordingly, the trial court had little choice but to declare the child a CHINS and continue his placement in foster care. Id. at 1113-14.

Mother also claimed the trial court's CHINS finding was supported by insufficient evidence to suggest that Grandmother was unfit to care for the child. The Court, however, found nothing in the record to support Mother's contention that Grandmother wanted or would accept custody of the child. It noted that (1) Grandmother was present at the initial hearing but neither she nor Mother requested the child be moved from foster care to Grandmother; (2) at the pretrial hearing, Mother alleged she had hired a firm to find an adoptive placement for the child, but there was no indication in the record that Grandmother took any steps toward adoption; and (3) Mother's testimony at the CHINS hearing was that Grandmother was not present because "she's given up." Id. at 1114.