

# KEY IV-E FACTORS

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## **Detention Orders:**

- Contrary to the Welfare (CTW) of the juvenile to remain at home ruling *must be in the first order addressing the removal* of a juvenile from where they reside.
- Orders removing juveniles from their homes have many different names depending on situation (e.g Detention, Detainment).
- Amending an order to add CTW is not possible/not fixable.
- CTW determination must address the welfare of the juvenile, not solely the community (or it can address both).

## **Expansion Orders:**

- This Order may be the first order of removal for a juvenile.
- Requires a CTW ruling if juvenile is being removed from a residence.
- Amending an order to add CTW is not possible/not fixable.
- Check appropriate CTW boxes on Expansion Order Template at section #4.

## **Consequences:**

- No federal foster care funding can be accessed.
- Some placements cost the state \$3000 to \$5000 a month.
- No IV-E Adoption Subsidy or IV-E Guardianship Assistance.
- Child will not be eligible for IV-E Medicaid (IV-E Medicaid is categorically eligible in all states).

## **Detention Orders:**

**Question:** Court orders that sentence a child to a juvenile detention facility often include language which differs from that in a dependency order resulting in a foster care placement. Does language in a detention order indicating that the child is a "threat to himself or the community" meet the requirement in section 472(a)(2)(A)(ii) regarding "contrary to the welfare?"

**Answer:** A court order indicating that the child is a threat to himself satisfies the requirement of a determination that remaining in the home would be contrary to the child's welfare. However, if the court order indicates only that the child is a threat to the community, such language would not satisfy the requirement for a determination that continuation in the home would be contrary to the child's welfare.

- **Source/Date:** ACYF-CB-PIQ-91-03 (4/3/91)
- **Legal and Related References:** Social Security Act - section 472 (a)(2)(A)(ii)

## **Idaho Court Rules – Rule 16:**

*“Contrary to the Welfare” finding under state and federal law.* In order to establish eligibility for federal IV-E funding as well as federal adoption assistance funding for children in foster care, federal law requires that the court make a written, case-specific finding, in the first order sanctioning removal of the child from the home, that remaining in the home is contrary to the welfare of the child. See 45 DFR 1356.21(c). An order removing the child from the home under this rule may be the first order sanctioning removal of the child from the home, and in such cases, this finding is necessary to ensure the child's eligibility for funding.

Consequences of non-compliance with federal requirements. If the case-specific “contrary to the welfare” finding required by federal law is not made, or is not made at the correct time, the error cannot be corrected at a later date to restore funding. The required finding cannot be a simple recitation of the language of the statute; however, if the case-specific information upon which the finding is based is set forth in a document in the court record (such as an affidavit), the finding can incorporate the document by reference without reiterating the facts as set forth in the document.

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK MAGISTRATE'S DIVISION

IN THE INTEREST OF: )

Name: )

ORDER OF DETENTION

DOB: 2/10/96 )

SSN: )

CASE NO.:

A CHILD UNDER EIGHTEEN )

YEARS OF AGE. )

TO ALL LAW ENFORCEMENT AGENCIES:

It is appearing to the Court that it is for the best interest of the above-named juvenile that the said juvenile be detained:

IT IS HEREBY ORDERED THAT \_\_\_\_\_, a minor child, be detained separate and apart from adults until further order of the Court in the Juvenile Detention Center at 137 S. 5th Street, Pocatello, Idaho. Reasonable efforts have been made to prevent the removal of the juvenile from his/her home. In compliance with the principles of the Juvenile Corrections act that are: accountability, community protection, and competency development, it is necessary to detain the juvenile. It is contrary to the welfare of the juvenile at this time to remain at liberty or in his/her home. The decision is based on the behavior and/or charges of the juvenile and the law of the State of Idaho.

DATED THIS 2nd DAY OF July, 20 12.

*[Handwritten Signature]*

BRYAN K. MURRAY - JUVENILE JUDGE  
SIXTH DISTRICT MAGISTRATE DIVISION

Juvenile has discretionary detention time.

Probation violation: Absconded, Failed to attend YDC, Unapproved Associations,

New charge(s): \_\_\_\_\_

Original charge(s): Unlawful Entry

I hereby certify that I have served this detention order by arresting the above named juvenile:

*[Handwritten Signature]* 5/96  
SIGNATURE  
Idocentlon order.wpd

*[Handwritten Signature]*  
AGENCY

7-12-12  
DATE