STATE OF INDIANA

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ COURT

In The Matter Of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

A Delinquent Child Case No. \_\_\_\_\_\_\_\_\_\_\_\_\_\_

# **ORDER ON MODIFICATION HEARING**

*[Juv. BB Committee strongly recommends avoiding a bare recitation of the proceedings and boilerplate language, you should include specific findings of fact (i.e. including juvenile history, reasonable efforts, how satisfactory they did on each service, etc., placement history)]*

 The State of Indiana appears by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, (Deputy/Prosecuting Attorney). The child, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, appears in person and with/without counsel, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. The parent(s) (guardian) (custodian) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ appear (s) in person. Also, (Probation Officer) (Intake Officer) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ appears. The following persons interested in this matter as a foster or prospective adoptive parent, caretaker, relative or other person having a significant relationship to the child also appear:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 A hearing is held on the Petition to Modify.

 The Court FINDS and ORDERS as follows:

[ ] The child admits to the allegations in the Petition to Modify.

The Court now determines that no promises or threats were made to the child, parent/guardian/custodian to obtain the admission, that the child is not under the influence of any substance, and that the child and the parent/guardian/custodian understand the admission and waive(s) their legal and constitutional rights previously explained. The Court finds an adequate factual basis and grants the Petition to Modify.

[ ] The Court considers the issue of detention and finds that the child should be detained for the following reasons:

 ( ) the child is unlikely to appear for subsequent proceedings;

 ( ) detention is essential to protect the child and the community;

 ( ) the child has a reasonable basis for requesting that he not be released;

 ( ) the parent, guardian or custodian cannot be located or is unable or unwilling to take custody of the child and the Court orders said child detained.

[ ] The Court finds that the State has proven by a preponderance of the evidence that good cause exists to modify the Court’s prior Dispositional Order.

[ ] The Court finds that the State has not proven by a preponderance of the evidence that good cause exists to modify the Court’s prior Dispositional Order. The prior disposition is continued without modification.

Child has/has not been identified as a dual status child.

***If the child has already been removed from the home, complete this section:***

***Title IV-E and Statutory Findings:***

**The Court finds that it is in the best interests of the child to be removed from the home environment and remaining in the home would be contrary to the welfare of the child because:**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.**

**( ) The Court finds that reasonable efforts to prevent or eliminate removal of the child were not required due to the emergency nature of the situation, as follows:**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**-or-**

**( ) The Court finds that reasonable efforts were made by the probation department to prevent or eliminate the need for removal of the child. The statements of reasonable efforts as set forth in the pleadings, reports, and documents of the probation department and/or all other service providers filed herein are incorporated by reference.**

**-or-**

**( ) The Court finds that reasonable efforts were made by the probation department to prevent or eliminate the need for removal of the child, including:**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**( ) The court finds that reasonable efforts have been made to finalize the permanency plan, as set forth in the pleadings, reports, and documents of the probation department and/or all other service providers filed herein and incorporated by reference.**

**-or-**

**( ) The Court finds that reasonable efforts have been made to finalize the permanency plan which is: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.**

*[If the child has been removed from the home and this is the* ***first*** *removal order, complete this section: Title IV-E and Statutory Findings:*

*The Court finds that it is in the best interests of the child to be removed from the home environment and remaining in the home would be contrary to the welfare of the child because:*

 *( ) of the allegations admitted;*

 *( ) of an inability to provide shelter, care, and/or supervision at the present time;*

 *( ) the child needs protection;*

*( ) the child has special needs that require services for care and treatment that cannot be provided in the home;*

 *( ) other: \_\_\_\_\_.*

*( ) The Court finds that reasonable efforts to prevent or eliminate removal of the child were not required due to the emergency nature of the situation, as follows: \_\_\_\_\_.*

*-or-*

*( ) The Court finds that reasonable efforts were made by the probation department to prevent or eliminate the need for removal of the child. The statements of reasonable efforts as set forth in the pleadings, reports, and documents of the probation department and/or all other service providers filed herein are incorporated by reference.*

*-or-*

*( ) The Court finds that reasonable efforts were made by the probation department to prevent or eliminate the need for removal of the child, including: \_\_\_\_\_.*

*(\_) A valid detention tool was utilized, and the Court incorporates the results of the detention screening tool into this Order. The detention screening results indicate as follows:*

*(\_) [Omit this section if child is OVER 12] The child is twelve years of age and (check one) (\_)the child poses an imminent risk of harm to the community; or (\_) the court makes a written finding as follows:\_\_\_\_\_\_\_\_\_\_\_\_ that detention is essential to protect the community and no reasonable alternatives exist to reduce the risk.]*

The Court finds responsibility for the placement and care of the child is ordered or continues to be ordered to the probation department of \_\_\_\_\_\_\_\_\_\_\_ county.

The court finds that the

 ( ) child is placed in a secure detention facility

or

 ( ) department of child services concurs in the probation officer’s recommendation in the petition or modification report;

or;

 ( ) department of child services does not approve the probation officer’s recommendation in the petition or modification report and the court, having reviewed the report of the DCS, accepts the recommendation of DCS;

or

 ( ) department of child services does not approve the probation officer’s recommendation in the petition or modification report. The court further finds, having reviewed the report of the DCS, the recommendations of the DCS are unreasonable based on the facts and circumstances of the case or are contrary to the welfare and best interests of the child based on the following: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

The removal of the child from the home or change in the child’s place of residence is an emergency required to protect the health and welfare of the child for the following reasons: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

*(If recommended placement is out-of-state):* The Court finds by clear and convincing evidence that the above out of state placement in a home or facility that is not a secure detention facility is appropriate because:

 ( ) The Director of the DCS or his designee has recommended or approved of the placement;

-or-

 ( ) There is not an equivalent home or facility with adequate services in Indiana, because \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_; and

 ( ) Institutional care in this facility is in the best interest of the juvenile and will not produce undue hardship, because\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_;

-or-

 ( ) the home or facility is not more than 50 miles from the county of the residence of the child.

The Court finds good cause to grant the modification and orders the following:

The child shall be detained in (secure)(non-secure) custody at \_\_\_\_\_\_\_\_\_\_\_\_\_as recommended or approved by the Probation officer. The placement is the least restrictive placement in the child’s best interest. It is contrary to the welfare of the child for the child to remain in the home. The placement was determined to be an emergency required to protect the health and welfare of the child.

The Probation Officer is ordered to prepare a PROGRESS Report to be filed \_\_\_\_\_\_\_\_\_\_\_\_ .

The Court sets this for a REVIEW Hearing on the \_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_ and \_\_\_\_\_\_ o’clock \_\_\_M.

The Court sets this for a PERMANENCY Hearing on the \_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_ and \_\_\_\_\_\_ o’clock \_\_\_M.

( )  *if placement is not in a secure detention facility:* The probation officer shall complete a case plan for the child no later than 60 days after the child’s first placement or the date of a dispositional decree. The Probation Officer shall send a copy of the completed case plan to DCS; the child’s parent, guardian or custodian; and the person or agency with whom the child is placed for temporary residence, within 10 days after completion of the plan. The Case Plan will be reviewed and updated once every 180 days.

SO ORDERED \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Judge

DISTRIBUTION:

CC: DCS