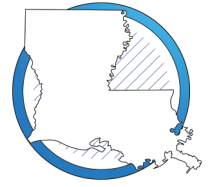


# INFORMAL ADJUSTMENT AGREEMENT (IAA)

■ La. Ch. C. arts. 628-630

BENCH  
CARD



## PURPOSE

IAA may be utilized regardless of whether child is in the parents' custody or that of DCFS; essentially a pre-adjudication diversionary process and viable alternative to prevent unnecessary removals and/or court interventions.

## TIMING AND GENERAL REQUIREMENTS

■ ARTICLES 424.1, 607-8, 628, 630

- IAA may be initiated either before or after CINC Petition filed.
- If child in DCFS custody, consent of DCFS is required for IAA.
- Before CINC Petition filed, court or DA may authorize IAA.
- After CINC Petition filed, court may authorize DA to effect IAA.
- Court may dismiss CINC Petition or allow Petition to remain pending during period of informal adjustment.

**PRACTICE TIP | Appointments:** Parents and children have a right to counsel at all stages of the CINC proceedings. Child representation and public defender programs should have been appointed—whether via Instant Order or thereafter. CASA may have been appointed as well.

## FORM OF AGREEMENT AND APPROVAL

■ ARTICLE 629

- (1) **FORM:** IAA shall set forth terms and conditions in writing; IAA shall be signed by DA, DCFS (if child in DCFS custody), parents, child (if 12 or older), and counsel.
- (2) **APPROVAL:** When child in DCFS custody and CINC Petition has been filed, IAA shall be submitted to court for consideration. If approved, court shall sign it and file it in the record; and IAA is the case plan for services.

**PRACTICE TIP | Requirements:** IAA must clearly delineate parents' obligations and services DCFS will provide. It should be individualized, depending on trajectory of case and issues at time it is executed. Requirements can look similar to safety plans or case plans, or a hybrid, and should be listed in body of IAA (rather than incorporated by reference to the plan).

**PRACTICE TIP | Stipulation:** As with any stipulation, the court shall engage in an examination of parents on the record to determine whether parents understand conditions and implications of IAA. If parents agree to extension of IAA, must be knowing and voluntary.

**PRACTICE TIP | DCFS Supervision:** Whether child is in DCFS custody or not, court may want to consider ordering that the IAA be filed in the court record and issue a specific court order as to whether DCFS is to supervise the case for duration of the IAA. Otherwise, DCFS may not know whether to continue or start to supervise the family.

## EFFECT OF AGREEMENT

■ ARTICLE 630

- IAA shall not be considered an Adjudication.
- Evidence of IAA shall not be admissible at any Adjudication Hearing or criminal trial.
- IAA suspends the proceedings on the acts alleged in CINC Petition. If any terms of IAA are violated, case may proceed to an Adjudication Hearing on the allegations.
- If parents satisfy IAA terms, they are discharged from further supervision, and a pending CINC Petition shall be dismissed with prejudice.
- IAA does not suspend the elapse of time authorizing TPR consistent with Title X of the Children's Code.
- Evidence of an agreement and parents' compliance or lack thereof is admissible in certification for adoption proceeding.
- Any incriminating statement made by parents to person giving counsel or advice and in discussions or conferences incident to IAA shall not be used against declarant over objection in an Adjudication Hearing or criminal trial.
- Any incriminating statement made by parents to person giving counsel or advice and in discussions or conferences incident to IAA may be used in a Disposition Hearing or for purpose of a presentence investigation after a criminal conviction.

**PRACTICE TIP | Purpose:** This Article expressly prohibits the admissibility of incriminating statements in an Adjudication Hearing or criminal trial to promote free and open discussion in attempting to reach an agreement. See Authors' Notes to Article 630(D).

**PRACTICE TIP | Status Hearing:** If an IAA is entered into, Children's Code does not require hearing. However, best practice is to set Status Hearing if court is overseeing IAA, perhaps halfway through its duration. If DCFS is supervising the IAA, court could order that DCFS submit a report to the court and all counsel of record 10 days prior to the Status Hearing and/or the expiration of the IAA with a recommendation to terminate IAA, extend IAA, or develop a new agreement.

## DURATION

ARTICLE 629

- (1) **CHILD NOT IN DCFS CUSTODY:** Period of informal adjustment not to exceed 6 months. See Article 114.
  - May be extended additional period for up to 6 months with consent of all signatories to original agreement.
- (2) **CHILD IN DCFS CUSTODY:** Period of informal adjustment not to exceed 3 months from date of child's entry into DCFS custody.
  - May be extended additional period for up to 3 months with consent of all signatories to original agreement.

**PRACTICE TIP** | [Effective:](#) IAA should set forth when agreement becomes effective and when it terminates.

## EXAMPLES OF WHEN TO CONSIDER IAA

- Instant Safety Plan Order (ISPO) issued, parents are following safety plan, and DCFS wants more time to work with family. (Unlike ISPO, IAA suspends proceedings on the acts alleged in CINC Petition. Court may also dismiss Petition or allow Petition to remain pending during period of informal adjustment.)
- Drug Court or Family Preservation Court case.
- CINC Petition has been filed and child is still in the home.
- Initial need for removal is no longer present.
- Child in DCFS custody, one parent is victim of domestic violence by non-parent, and DCFS working with parent to safely get child back.

See [Informal Adjustment Agreement Template](#) and [Informal Adjustment Agreement Order Template](#).