

**FOURTH JUDICIAL DISTRICT POLICIES AND PROCEDURES FOR  
PROCESSING DEPENDENCY AND NEGLECT CASES  
"DISTRICT PLAN"  
July 23, 2024**

**INTRODUCTION**

The Fourth Judicial District Policies and Procedures for Processing Dependency and Neglect Cases were developed in consultation with the Office of the County Attorney, the Office of the Guardian ad Litem, CASA, and several Respondent Counsel. These policies and procedures incorporate the requirements of Chief Justice Directives 96-08, 98-02, 04-05 and 04-06, as well as practice and procedure recommendations contained in the National Council for Juvenile and Family Court Judges' *Resource Guidelines, Improving Court Practice in Child Abuse and Neglect Cases (1995)* and *Adoption and Permanency Guidelines, Improving Court Practice in Dependency and Neglect Cases (2000)* and procedures created by the Fourth Judicial District Model Court Project.

The purpose of these policies and procedures is to expeditiously and justly resolve dependency and neglect cases by promptly providing services to families and ensuring ongoing judicial management of cases involving our most vulnerable citizens, the children. These Policies and Procedures replace the policies and procedures dated July 14, 2023.

The Fourth Judicial District is comprised of El Paso and Teller counties. These policies and procedures may be reviewed and revised to reflect changes as a result of the ongoing efforts of the Best Practices Court Team.

**SHELTER HEARINGS**

**Purpose**

To make a determination regarding temporary custody and appropriate placement of the child(ren); to ensure that all respondent parents are identified, represented by counsel and understand the dependency and neglect process; to appoint a Guardian ad Litem (GAL) to represent the best interests of subject child(ren) under the age of 12; to appoint a Counsel for Youth (CFY) to represent the expressed interest of subject child(ren) age 12 and older; to appoint a CASA as appropriate; to enter protective orders, the case management order, and visitation orders; to promptly identify all family resources; and to gather information regarding whether the Indian Child Welfare Act applies. Forms are distributed at this hearing regarding paternity, relative and non-relative resources, and Native American heritage.

## **Process**

A shelter hearing shall be held in every case within seventy-two hours of the date of removal or entry of an emergency ex parte protection order (exclusive of weekends and holidays) unless an earlier hearing is mandated by statute. At the shelter hearing, the Court shall sign the written order which grants the Temporary Protective Custody and Initial Out of Home Placement Order, where removal has occurred. The Court shall sign the Emergency Protection and Protective Supervision order at the shelter hearing. The Court shall sign a written order which shall contain findings required by law, including findings required by Section 19-1-115(6) (a-d) concerning Verbal Authorization/Removal and Section 19-1-115(6.5) (a-c) concerning continuation of the temporary protective custody order or of the emergency protection order at the shelter hearing. Other issues needing further review may be addressed at subsequent hearings. The usual time for the Court to call the shelter hearing docket is 1:30 p.m., unless otherwise determined by the court.

## **New Dependency and Neglect Cases**

The following critical tasks shall be completed at or before the shelter hearing (and must be completed prior to the Pretrial Conference discussed in Section II below):

- a. DHS shall identify and notify all Respondents, including presumed or alleged fathers, of the upcoming shelter hearing.
- b. The Office of County Attorney (OCA) shall file the Court Information Sheet with the Juvenile Court Facilitator by electronic means. The Juvenile Court Facilitator shall provide a copy of the Case Information Sheet to Respondent Parent Counsel, the Guardian ad Litem and/or Counsel for Youth. CASA may appear and receive information pursuant to the El Paso County Memorandum of Understanding. The Court Information Sheet shall contain the name and date of birth for all parties. The OCA shall also provide the first four to five pages of the caseworker's grounds to the Juvenile Court Facilitator prior to the shelter hearing. The grounds shall contain contact information for parents, so that the Family Court Facilitator may contact parents to determine if they qualify for court-appointed counsel. The grounds shall also include whether an interpreter is needed, so the Division Court Judicial Assistant can arrange for those services for the shelter hearing. The grounds shall include whether a parent is incarcerated along with information on where that parent is incarcerated, so the Division Court Judicial Assistant may arrange for the parent to be made available for the shelter hearing.
- c. The Juvenile Court Facilitator's Office shall contact parents by phone, email, or text to complete the JDF 208 court appointed counsel application. If the respondent parent qualifies for court appointed counsel, the Juvenile Court

Facilitator's Office will assign counsel in accordance with the procedure set forth in "Guidelines for Appointment and Performance Assessment of Respondent Parents' Counsel". The Juvenile Court Facilitator's Office shall provide the OCA with names of the appointed Respondent Parent Counsel and the Guardian ad Litem prior to the shelter hearing. Prior to the shelter hearing Respondent Parents' Counsel shall make good faith efforts to contact his/her client in order to identify the client's position on all shelter hearing matters.

- d. Provisional appointments of Respondent Parents' Counsel may be made before shelter hearings.
- e. CFYs and GALs shall be appointed twenty-four (24) hours prior to the Shelter Hearing, and the Department shall provide the CFY/GAL with contact information for the placement and/or for each child/youth. Prior to the shelter hearing. An assigned GAL shall make efforts to develop a position on all shelter hearing matters prior to the hearing by conducting a preliminary investigation into the circumstances that brought the case before the court, which can include interviewing the subject children, the caseworker, any family members, etc. An assigned CFY should make good faith efforts to meet with his/her client prior to the hearing in order to identify the youth's position on all shelter hearing matters. The Department of Human Services shall support youth 12 years of age and older being transported to court by communicating with placement providers regarding the expectation that youth 12 years of age and older attend and assisting with coordination of transportation for the youth.
- f. The OCA shall prepare the Petition in Dependency and Neglect, the temporary protection orders or emergency protection orders, and the shelter hearing stipulation prior to the shelter hearing. These documents, including the safety and risk assessment, shall be sent out to Respondent Parent's Counsel, the Guardian ad Litem and/or Counsel for Youth, and the Clerk of the Court by electronic means by 11:00 a.m. the day of the shelter hearing. The Petitioner, the Department of Human Services (DHS), is authorized to file the Dependency and Neglect Petition within fourteen days from the date the child(ren) was/were taken into custody in accordance with C.R.J.P. 4. The OCA shall provide a paper copy of the petition to each Respondent listed in the petition.
- g. It is the responsibility of Respondent Parents Counsel to either share the video "Advisement of Rights in Dependency and Neglect Cases" and confirm they have watched it or review the written Advisement with the client prior to the Shelter Hearing. If a respondent is pro se, then the Juvenile Court Facilitator's Office will text or email a link to the video to the pro se respondent.

- h. Potential relative placements shall be identified. The parties responsible for identifying potential relative placements are DHS, the Guardian ad Litem and or Counsel for Youth, Respondents, and Respondent Parents' Counsel. DHS, the Guardian ad Litem and Counsel for Youth have a duty to inquire whether the Respondents or subject child(ren) are aware of relative resources. Respondents have a duty to notify DHS, Respondent Parents' Counsel, the Family Court Facilitator, the Guardian ad Litem/Counsel for Youth of all potential relative resources.
- i. Respondent Parents' Counsel shall provide the Respondent with ICWA affidavit(s), Relative Resource Affidavits, and a paternity affidavit (if applicable). Respondent Parents' Counsel is responsible for assisting his/her client in completing these documents and filing them with the Court, the Guardian ad Litem/Counsel for Youth, the caseworker, and the County Attorney. Respondent Parents' Counsel shall work diligently to have this paperwork completed prior to the shelter hearing. If it is not provided at the shelter hearing, then it shall be filed by the next court date.
- g. On days when the shelter hearing is held, Respondent Parent Counsel, the Guardian ad Litem/Counsel for Youth, the County Attorney, the caseworker, and the Respondents shall appear one hour prior to the scheduled court hearing in the Family Court Facilitator's office. The purpose of meeting prior to the shelter hearing is to identify appropriate protective orders, to provide an opportunity for all parties to identify any contested matters, identify appropriate services for any party, and communicate regarding any matter relevant to the case and shelter hearing. Prior to the start of shelter hearings, Respondent Parent Counsel and the Guardian ad Litem and/or the Counsel for Youth shall inform the County Attorney of their position regarding the shelter hearing proposed orders. All parties shall confer in good faith on any contested matters prior to the shelter hearing.
- h. The Juvenile Court Facilitator shall provide a monthly calendar to the OCA, to Guardians ad Litem/Counsel for Youth, Respondent Parents' Counsel, and CASA detailing which division shelter hearings will be in and if there are any days when shelter hearings will not be taking place.
- i. When the Court is unable to hold the shelter hearing at 1:30 p.m., the Court shall notify the Juvenile Court Facilitator of the change in time and it is the Juvenile Court Facilitator's responsibility to notify the OCA, the Guardian ad Litem/Counsel for Youth, Respondent Parent's Counsel, and CASA (if applicable) of the change in time. The Caseworker shall notify the Respondents.
- j. Dependency and neglect cases involving Unaccompanied Refugee Minors have their own unique procedural context under federal law, which

specifically exempts these cases from compliance with some requirements. To the extent the specific procedures regarding Unaccompanied Refugee Minor cases are in addition to, different from, or inconsistent with the procedures contained in these Policies and Procedures, federal law prevails.

- k. The policies and procedures in this document shall be interpreted in a manner consistent with the requirements of Section 19-3-304.5, C.R.S. as amended. This is also known as the Safe Haven Law and requires a specific procedure for service of process and parent notification.
- l. Unless approved by a judicial officer, the dependency and neglect case has opened in relation to a juvenile delinquency case, both the dependency and neglect and juvenile delinquency cases shall be assigned to Division Z. The exception to assigning these two cases to Division Z is if the juvenile delinquency case is a sex offense, then both cases shall be assigned in Division V.

### **Requirements for the Court for All New Dependency and Neglect Cases**

In all new Dependency and Neglect cases, the Court shall take the following steps at the shelter hearing:

- a. Appoint counsel to represent the Respondents, if they qualify for court-appointed counsel, and notify counsel.
- b. Appoint a Guardian ad Litem and/or Counsel for Youth through the Office of the Guardian Ad Litem. If the Office of the Guardian Ad Litem determines there is a conflict, they shall notify the Court facilitator who will then assign a conflict Guardian ad Litem and/or Counsel for Youth to be appointed by the Court.
- c. Inquire whether the Respondents received the Petition and advise them of their rights, obligations and the potential consequences of the dependency and neglect petition and permanency options. Respondents shall sign the Acknowledgement of Rights and the sworn Affidavit of Relative Resources. The Court shall advise them pursuant to C.R.S. §19-3-403(3.6) (a)(I). Respondents shall sign the sworn affidavits as to ICWA, Paternity and Financial affidavits when applicable.
- d. Determine the need for continued placement if removal has occurred. Any placement orders should include discretion to change placement or custody to a parent or other relative prior to the next scheduled hearing upon agreement of the Guardian ad Litem and Caseworker. A judge or magistrate may include CASA in the discretion with Guardian ad Litem and Caseworker or in consultation with CASA.

- e. Enter interim orders. DHS shall make any necessary referrals for interim orders regarding services as soon as possible after the Court adopts the interim orders. For cases involving substance abuse, mental health issues or domestic violence, the Court may order expedited assessments with the consent of the parties. The Court will review compliance at the pretrial conference.
- f. Set the Respondents' parenting time plan. There shall be an initial visit within 48 hours, not to exceed 72 hours of removal for each parent, except where the Court finds there is evidence that such visits would be harmful to the child. The Court shall follow the "Bench Reference for Suggested Baseline Visitation in D & N Cases" unless the Court determines otherwise.
- g. Enter protective orders, if necessary.
- h. Inquire as to the identity and location of any potential Respondent(s) not named in the petition and order OCA to amend the petition accordingly. When appropriate, order Respondents to complete a paternity affidavit. If paternity is at issue, the Court may order DNA testing.
- i. Set a pretrial conference no sooner than 14 days nor later than 21 days from the date of removal in expedited permanency planning (EPP) cases unless the parties agree otherwise. In non-EPP cases, the pretrial conference shall be set no later than 30 days after removal. If Respondents do not supply the sworn affidavits referred to in paragraph 3(c) above, the Court shall order them to complete the affidavits and bring them to the pretrial conference or file them with the Court no later than seven days from the shelter hearing, whichever occurs first.
- j. Assess the appropriateness of appointing a Court Appointed Special Advocate ("CASA"). CASA appointments should be made as early in the proceedings as practicable. The appointment can be made by the Court upon motion of any party or upon the Court's own motion. The procedures for appointment of CASA volunteers are contained in the El Paso County CASA Memorandum of Understanding. CASA will be appointed only when there is a CASA volunteer currently available to accept appointment. When a CASA volunteer is appointed, the moving party is required to complete the Order Appointing CASA and advise CASA of the Pikes Peak Region, Inc. of the appointment.
- k. The verbal order issued pursuant to Rule 2.3 of the Colorado Rules of Juvenile Procedure shall be reduced to writing and signed by the judicial officer at the shelter hearing. At the conclusion of the hearing, the Court shall provide all parties with a copy of the written orders and stipulations

via the e-filing system. Supplemental orders shall be filed within fourteen (14) business days, per the case management order.

- l. The Court Division shall upload the Case Management and Trial Management Order for Dependency and Neglect Proceedings into every case.
- m. Families who are screened into Family Treatment Drug Court (FTDC) shall be advised of the FTDC procedures and shall be scheduled for further proceedings in accordance with FTDC Protocol and the FTDC Contract.
- n. Families who are screened into Well Baby Court (WBCT) shall be advised of the WBCT procedures and shall be scheduled for further proceedings in accordance with WBCT Protocols and the WBCT Contract.

### **Non-Appearing Respondents**

- a. If a Respondent has not been identified or notified and served with the Petition, the Court shall order DHS to make additional attempts to serve the Respondent.
- b. In the event a Respondent is notified and fails to appear at the shelter hearing, the Court shall enter orders and the hearing shall be continued to the pretrial conference for the purpose of advisement and appointment of counsel, if the Respondent qualifies for court-appointed counsel. OCA shall serve any non-appearing Respondent with notice of the hearing and the dependency and neglect petition. If a parent is notified and fails to appear at the shelter hearing, but Respondent Parent's Counsel is appointed and that attorney waives service, then that Respondent Parent's Counsel is responsible for notifying their client of the next court date.

### **Critical Tasks for All Ongoing Dependency and Neglect Cases Requiring Shelter Hearing**

- a. DHS may request emergency verbal orders for on-going cases. If practical and in the best interests of the child, DHS shall attempt to consult with the Guardian ad Litem, Counsel for Youth, and CASA (if applicable) prior to requesting verbal orders. Upon receipt of the verbal orders, DHS shall notify all parties within 24 hours of the removal.
- b. The County Attorney's Office shall set the matter for a shelter hearing, which shall occur within 72 hours of the time of removal of the child(ren). All verbal orders received by the Caseworkers shall be followed up with a written order no later than the time of the shelter hearing.

- c. At least 24 hours prior to the shelter hearing, the Caseworker or OCA shall notify Respondents' Counsel, the Guardian ad Litem/Counsel for Youth and CASA (if applicable) of the date, time, and purpose of the shelter hearing.
- d. On days when the shelter hearing is held, Respondent Parent Counsel, the Guardian ad Litem/Counsel for Youth, the County Attorney, the caseworker, the Respondents, and CASA (if applicable) shall appear one hour prior to the scheduled court hearing in the Family Court Facilitator's office. The purpose of meeting prior to the shelter hearing is to identify appropriate protective orders, to provide an opportunity for all parties to identify any contested matters, identify appropriate services for any party, and communicate regarding any matter relevant to the case and shelter hearing. Prior to the start of shelter hearings, Respondent Parent Counsel and the Guardian ad Litem/Counsel for Youth shall inform the County Attorney of their position regarding the shelter hearing stipulation. All parties shall confer in good faith on any contested matters prior to the shelter hearing.

## **APPOINTMENT OF COUNSEL**

- a. Special Respondent may be appointed counsel if the requirements of C.R.S. 19-3-502(6) are met.
- b. Successive Appointments of Respondent Parents' Counsel may be made. If a Court grants Respondent Parents' Counsel request to withdraw based on a parent having a conflict working or cooperating with their counsel, the Court should advise the parent that their failure to cooperate with their appointed counsel could result in the Court refusing to appoint the parent additional counsel.

## **PRETRIAL CONFERENCE**

### **Uncontested Cases**

#### **Purpose**

To accept admission to the petition, to enter the adjudicatory order, to adopt the interim orders if appropriate.

#### **Process**

The Court shall take the following actions at the pretrial conference:



- a. Enter default judgment against any non-appearing Respondent who has been served with the petition, is not represented by counsel and who has not filed a responsive pleading.
- b. Accept admissions to the petition.
- c. Review the terms of the interim orders with the Respondents and inquire regarding the Respondents' willingness and ability to comply with the terms of the interim orders.
- d. Ensure that DHS has made the appropriate referrals for treatment plan services.
- e. Advise the Respondents of the potential consequences of not complying with the treatment plan, including termination of parental rights.
- f. Adopt the interim and Permanency Plan as needed.
- g. Set a hearing for the Phase II Treatment Plan/Disposition and if the child(ren) has been removed, set a Permanency Planning Hearing no later than 90 days.

## **Contested Cases**

### **Purpose**

To enter a denial of the petition and adopt pretrial orders.

### **Process**

- a. In contested cases, the Pretrial Conference shall serve to narrow the issues and to allow the Court to enter such orders as are necessary to move the litigation forward.
- b. The Court shall take the following actions at the Pretrial Conference:
  - (1) require the parties elect between a magistrate, a judge or jury;
  - (2) in the event the parties choose to remain in the magistrate division, set a court trial no later than 60 days from service of the Petition in EPP cases or no later than 90 days for non-EPP cases.
  - (3) in the event the parties ask for a jury trial, transfer the case to a District Court Judge and set the trial date no later than 60 days from service of the Petition in EPP cases or no later than 90 days for non-EPP cases, and motions date (if necessary).

- a. Order the parties to participate in mediation either through the Office of Dispute Resolution, Facilitated Mediations, or informal mediation. The court shall set the date for mediation in court on the record if possible if mediation will be through the Office of Dispute Resolution. If the court is unable to schedule mediation on the record, then the assigned County Attorney is responsible for emailing the Office of Dispute Resolution to get mediation dates. If parties agree to a Facilitated Mediation or informal mediation, then the County Attorney is responsible for reaching out to schedule the Facilitated Mediation or informal mediation. The County Attorney is responsible for ensuring all appropriate parties are included in scheduling all mediations. If mediation must be scheduled via email, then all parties shall respond promptly with their availability to help secure a mediation date in a timely manner;
- b. Enter the Case Management and Trial Management Order for Dependency and Neglect Proceeding scheduling orders and protective orders necessary under the facts.

## **MEDIATION**

### **Purpose**

To resolve contested legal issues.

### **Process**

- a. Mediation in the format deemed appropriate by the Court shall be mandatory prior to any contested hearing, unless the Court waives this requirement.
- b. Respondents, Caseworker, Guardian ad Litem/Counsel for Youth, County Attorney, Respondents' Counsel, and CASA (if applicable) must participate. Other parties, including the child (if age appropriate) and service providers (if appropriate) should be included.
- c. Respondent's Counsel shall ensure that Respondents have all necessary information to participate in the mediation, including dial-in or other virtual hearing information.

- d. Mediation through the Office of Dispute Resolution (ODR) will be without cost to the parties, other than the Petitioner, unless a party fails to appear at mediation provided the party had adequate notice. In such case, the absent party will be assessed their portion of the costs of mediation as ordered by the Court.
- e. All parties shall comply with ODR policies, including ODR's cancellation policy. If mediation is no longer necessary either because all contested issues are resolved or a party is not anticipated to appear for mediation, then parties have an affirmative obligation to inform the assigned County Attorney more than seven (7) days prior to the mediation to ensure that mediation can be cancelled without incurring costs.
- f. If parties agree to Facilitated Mediation or informal mediation, then this shall be set up by the County Attorney. Parties are expected to communicate timely when scheduling mediation and inform the County Attorney as soon as possible if mediation is no longer needed. Facilitated Mediations will be without cost to the parties, other than the Petitioner.
- g. All mediations, negotiations, settlement meetings or related communications are confidential and inadmissible as provided by Rule 408 of the Colorado Rules of Evidence.
- h. If mediation is not held to resolve a contested matter, then all parties shall communicate with each other to resolve any contested matters prior to the contested hearing date.

## **ADJUDICATORY TRIAL**

### **Purpose**

To determine whether the allegations in the petition have been proven by a preponderance of the evidence unless proof by clear and convincing evidence is required by ICWA.

### **Process**

1. An Adjudicatory Trial shall commence no later than 60 days from the date of service of the Petition in an EPP case or no later than 90 days in a non-EPP case unless the court finds it is in the best interest of the child to delay the trial. The Court shall set the trial at the earliest practicable date. The Court will not grant continuances except upon a showing that a delay is in the best interest of the child(ren). The good cause finding, and reasons therefore shall be included in the minute order of the hearing. If the Court grants a continuance, the Court shall schedule the hearing at the earliest possible date, pursuant to C.R.S. §19-3-505(3).

2. The parties must participate in mediation as described in Paragraph III of these policies and procedures.
3. If all issues are resolved at mediation, the Court shall make every effort to be available to approve the agreement and enter an immediate order of adjudication and set a disposition date. Whenever possible, the interim orders shall be adopted at adjudication.
4. If all issues are not resolved at mediation, contested issues shall proceed to trial on the scheduled trial date.
5. The parties should be prepared to proceed to both adjudication and disposition on the date set for the Contested Adjudicatory Trial. If the petition is sustained at the trial and if a Phase II Treatment Plan is not available or adopted at the conclusion of the trial, a dispositional hearing shall be set within 30 days for EPP cases and within 45 days for non-EPP cases.

## **DISPOSITIONAL HEARINGS**

### **Purpose**

To ensure that an appropriate treatment plan is in place designed to reunite the family if the child(ren) has been removed from the home and to ensure the child has a safe environment in which to live or to determine whether an appropriate treatment plan can be devised or remedy the issues that brought the family before the court.

### **Process**

1. The Caseworker and Respondents shall meet to develop a Phase II Treatment Plan. The Caseworker is encouraged to include family supports, assessment and treatment providers, the Guardian ad Litem/Counsel for Youth, Respondent Counsel, and CASA in developing that plan.
2. DHS shall file the Phase II Treatment Plan no later than seven business days prior to the dispositional hearing.
3. The Phase II Treatment Plan shall include appropriate family social history.
4. Respondents' Counsel and Counsel for Youth are required to review the Phase II Treatment Plan with their clients prior to the case being called in court.

5. If a party objects to the Phase II Treatment Plan, the Court shall resolve the issue or set the matter for hearing and mediation, if appropriate.
6. In the event DHS has filed a motion asking that the Court find that no reasonable treatment plan can be devised, the Court shall set that motion for a hearing and order the parties to participate in mediation if the Respondent is participating in the case and does not agree with the motion for a no reasonable treatment plan. In the event DHS has filed a motion asking the court enter a no reasonable treatment plan for a respondent who was served through publication and failed to appear for the hearing, then the court shall enter the no reasonable treatment plan pursuant to C.R.S 19-3-508(1)(e)(I) and C.R.S. 19-3-604(1)(a)(I-II).

## REVIEW HEARINGS

### Purpose

To review the need for continued out of home placement (if the child has been removed), the Respondents' progress on the treatment plan, and the continued appropriateness of the permanency goal, and to determine whether DHS is making reasonable efforts to reunite the family or to prevent out of home placement, or in the case of children whose permanency plans are other planned permanent living arrangements, to determine whether DHS is making reasonable efforts to accomplish the objectives of the permanency plan.

### Process

1. Initial Review. The initial review shall be an appearance review and shall be held no later than 90 days after the Dispositional Hearing, unless a specific case requires an earlier review. The type and timing of subsequent reviews will depend on the facts and circumstances of the case.
2. Who should attend. Respondents (whose parental rights have not been terminated), Special Respondents, the child if they wish to be present, Respondents' Counsel, the Guardian ad Litem/Counsel for Youth, Caseworker, County Attorney, and CASA. Foster parents or other custodial adult(s) may be present at review hearings.
3. DHS shall send written notice of the next review hearing to any pro se party, foster parents or other placement, who did not appear at the prior review.
4. DHS shall file a written status report and serve the parties and counsel at least five days prior to any scheduled review. The report should include a placement history and a discussion of the developments in the case since the last hearing or review, the progress on the treatment plan, the continued appropriateness

of the permanency goal, and the Respondents' participation in visitation and interaction with the child.

5. Parties will have the opportunity to update the court regarding the status of the case and/or the status of parties in the case.
6. The Court should consider the following issues at every review:
  - a. If the child(ren) is placed out of home, inquire whether the child can be returned home and what, if any, services can be provided so that the child(ren) can return home.
  - b. Whether the current placement is appropriate and adequately meets all physical, emotional and educational needs of the child(ren).
  - c. Continue to inquire about relative resources and diligent search efforts.
  - d. Review the appropriateness of the permanency goal and timeline.
  - e. Progress on treatment plan goals and whether the treatment plan or proposed services need to be modified in light of additional information or changed circumstances.
  - f. Respondents' involvement and interaction with the child(ren) and whether visitation should be modified.
  - g. Whether DHS has made reasonable efforts to either prevent out of home placement of the child(ren) or to reunite the child(ren) with the parents; or in the case of a child(ren) whose permanency goal is other planned permanent living arrangements, whether DHS has made reasonable efforts to accomplish the objective of the plan.
  - h. Continue to inquire as to the applicability of the Indian Child Welfare Act as well as the status of outstanding inquiries to registered tribes.

## **PERMANENCY PLANNING HEARING**

### **Purpose**

**If the child(ren) is/are in the home this section is not applicable.**

To adopt a specific permanency plan for the child(ren) who is/are in out of home placement and to take significant steps toward implementing the permanency plan.

## Process

1. Timing. The Permanency Planning Hearing is to be held within three months from the dispositional hearing; unless the Court has made a finding that no reasonable treatment plan can be devised in which case the Permanency Planning Hearing is to occur no later than 30 days from the date of the finding. Additional Permanency Planning Hearings shall be held at least every six months. *See* C.R.S. §19-3-702(1).
2. Who Should Attend? In addition to the parties and their counsel, any child aged 12 and older shall be present, unless otherwise directed by the Court. Persons whose presence may be needed at the permanency planning hearing may also include children under the age of 12 who wish to be present, extended family members, foster parents, prospective adoptive parents, service providers, and probation or parole officers.
3. A proposed Permanency Plan and any proposed amendments to the treatment plan must be filed by DHS and shall be provided to the parties and counsel at least five business days prior to the Permanency Planning Hearing, unless otherwise ordered by the court.
4. At the permanency planning hearing, the court shall determine if the child or youth should be returned to the child's or youth's parent, named guardian, or legal custodian and the date on which the child or youth must be returned. At any permanency planning hearing, the court shall also make the following determinations, when applicable:
  - a. Whether procedural safeguards to preserve parental rights have been applied in connection with any change in the child's or youth's placement or any determination affecting parental visitation of the child or youth;
  - b. Whether reasonable efforts have been made to finalize the permanency goal.
  - c. When the child or youth resides in a placement out of state, whether the out-of-state placement continues to be appropriate and in the best interest of the child or youth;
  - d. Whether a child or youth who is fourteen years of age or older is receiving transition services to successful adulthood, regardless of his or her permanency goal; and
  - e. Whether the current placement of the child or youth could be a permanent placement, if necessary.

5. The Court shall make factual findings and legal conclusions based on evidence and documentation consistent with a specific permanency plan for the child.

Reunification on a date certain beyond the permanency planning hearing (not exceeding 6 months from the date of the Permanency Planning Hearing). See C.R.S. §19-3-702(4).

a. Reunification The Court must make specific findings as to the extenuating circumstances justifying reunification as the continued permanency goal. The court must find that the parents have made significant progress on the treatment plan, that there is a substantial probability that the child will be returned home within 6 months, and that reunification is in the best interest of the child.

If the child cannot be reunified within six months, the Court should adopt amendments to the treatment plan, as necessary.

b. Independent Living. Determine whether the child(ren) is in out of home care and 14 years of age or older. If so, DHS shall complete an Independent Living Assessment and an Independent Living Plan (ILP) based on the assessment within 60 calendar days of the child(ren)'s birthday, or date of placement, whichever is later. The Caseworker shall amend the Family Services Plan to include the ILP and specify who will provide the required services. The Court shall inquire about the progress of the ILP at each hearing. The child(ren) shall be in placement receiving services to develop independent living skills or emancipation skills. Reviews shall be conducted every 3 months unless the circumstances warrant more frequent reviews. Unless otherwise directed by the Court, the ILP shall be filed with the Court. ILPs shall continue to be followed despite any changes in placement out of home.

c. Termination. If six months after the date of removal, reunification is no longer likely, the Court shall inquire whether a Motion to Terminate Parental Rights should be filed and set for hearing. After hearing the positions of all parties, the Court shall decide if filing a Motion to Terminate Parental Rights is in the best interests of the child(ren). The Court shall authorize service by publication on missing parents before a termination hearing.

d. Relinquishment Prior to a relinquishment hearing, counseling shall be completed. A relinquishment hearing shall be considered to be a permanency planning hearing.



e. Permanent Custody. Any party seeking permanent custody shall file a written motion, seven days before the hearing set for that purpose. If uncontested, the motion may be heard immediately or at the next scheduled court appearance. Otherwise, the matter should be set for hearing as soon as practical. Orders for Allocation of Parental Responsibilities (APR), Permanency Custody and Guardianship shall be certified into a domestic relations case, as required by C.R.S. §19-1-104(6) and as authorized by C.R.J.P. 4.4, in accordance with the Fourth Judicial District Best Practices Procedure for entry of a permanent APR order. The Court shall inform the parties of the practical and legal consequences of the APR order before the case is vacated.

f. Other Planned Permanent Living Arrangements (OPPLA). Before adopting an OPPLA as a permanency goal, the Court shall require evidence of a compelling reason for a permanency goal other than reunification, adoption, or permanent custody. DHS shall organize appropriate staffing's to ensure there is adequate justification for the OPPLA goal and that the Court is well informed about that goal. A permanency planning team decision making meeting, or similar process, shall take place in every case where OPPLA is the permanency goal. The Court shall review the case every 3 months unless the circumstances warrant more frequent reviews.

## **TERMINATION OF PARENTAL RIGHTS HEARING**

### **Purpose**

To determine whether there are statutory grounds to sever the parent/child legal relationship and whether termination is in the best interest of the child(ren).

### **Process**

1. The Motion to Terminate Parental Rights shall be filed as necessary to achieve permanency and set for trial no sooner than 30 days and no later than 120 days.
2. The Court shall set the matter for advisement on the motion to terminate within 30 days of the filing of the motion. Mediation shall be scheduled if requested and court ordered.
3. All counsel are required to follow the Case Management and Trial Management Order for Dependency and Neglect Proceedings.

4. The Court shall grant continuances only upon a finding that there is good cause for delay and the delay is in the best interests of the child(ren).

5. Upon termination of parental rights, the case is to be set for a post-termination appearance review within 90 days for purposes of adopting a post-termination placement plan. A post-termination report shall be filed by the Guardian ad Litem and served on the parties and counsel at least five business days prior to the review. The Court will set subsequent reviews based on the facts and circumstances of the case, every 90 days until permanency is achieved.

6. D & N Cases may be vacated when a final decree of adoption or other permanency is achieved.

7. If the motion to terminate parental rights is not granted, then the court shall determine if an amended treatment plan is necessary.

## **APPEALS AND REVIEWS**

Appeals shall comply with C.A.R. 3.4. Review of a magistrate's order shall comply with § 19-1-108 and C.R.M. 7.

Parties shall be advised of appeal and review procedures and deadlines at the conclusion of any hearing or upon the entry of any order for which there may be review or appeal.

## **FOSTER YOUTH IN TRANSITION PROGRAM**

### **Purpose**

To offer youth between the ages eighteen-years-old and twenty-one-years old access to a voluntary transition program to aid with community-based supports through early adulthood including housing, food, healthcare, and caseworker support to assist the youth in transitioning to emancipation.

- A. If a youth is in foster care or a noncertified kinship care placement on or after his or her sixteenth birthday and his or her case is about to vacate prior to his or her eighteenth birthday, then the court shall advise the youth of the Foster Youth in Transition Program (FYTP).
- B. If a youth has an open case and is approaching his or her eighteenth birthday, then the Court shall set a Transition Hearing within thirty-five days of the youth's eighteenth birthday to determine if the youth will participate in the FYTP or emancipate.

- C. Seven days prior to the Transition Hearing, the OCA shall file DHS's report. If the youth is going to join the FTYP, then the OCA shall file a petition with an executed copy of the voluntary services agreement, the youth's current roadmap to success, and affirmation that DHS provided the youth with documents pursuant to C.R.S. 19-3-702(4)(d). If the youth plans to emancipate then the OCA shall file the emancipation plan, DHS's report, and affirmation that DHS provided the youth with documents pursuant to C.R.S. 19-3-702(4)(d).
- D. At the Transition Hearing the Court shall advise the youth of the following:
1. The right to emancipate or receive voluntary services through the transition program;
  2. That by entering the transition program the youth must enter into a voluntary services agreement with DHS;
  3. That the transition program provides the youth with access to financial support with housing and other services;
  4. That these services are voluntary, and the youth may remain in the program until his or her twenty-first birthday as long as all requirements of the program are met;
  5. That if the youth choose to emancipate, he or she may re-enter the FYTP prior to his or her twenty-first birthday;
  6. That the youth is entitled to retain his or her Guardian ad Litem as counsel or to request a new attorney be appointed through the Office of the Child's Representative; and
  7. That if the youth opts into the FYTP then the Dependency and Neglect case will be dismissed or the youth will be dismissed from that case while the case is kept open for siblings, and a new case will be opened for the FYTP.
- E. The transition hearing may be continued up to 119 days if the youth needs additional time to decide whether to join the FYTP or to prepare for emancipation.
- F. The FYTP requires Periodic Review Hearings every six months. This may be accomplished through a written report if all parties agree. Prior to the Periodic Review Hearing, the OCA shall file a copy of the roadmap to success, a statement of the youth's progress on participating in goals and meeting his or her obligations pursuant to the voluntary services agreement, a statement of DHS's reasonable efforts to support the youth meeting his or her goals, and a statement of any barriers to the youth meeting his or her goals, as well as a plan to address such barriers.
- G. At the Periodic Review Hearing the Court shall find (1) whether DHS has made reasonable efforts to implement the youth's case plan including the roadmap to success, and (2) whether the youth continue to need foster care

and if this placement is the least restrictive to meet the youth's needs. The Court may order DHS to provide additional services or supports to help the youth achieve goals outlined in the roadmap to success. If the court finds the youth is not substantially fulfilling the obligations of the voluntary services agreement, then the Court may enter orders for the youth to follow in order to maintain eligibility for the FYTP.

- H. A Permanency Planning Hearing shall occur for all FYTP cases every twelve months pursuant to C.R.S. 19-3-702. This hearing may be combined with the Periodic Review Hearing.
- I. An Emancipation Discharge Hearing shall occur within thirty-five days upon the receipt of the youth's motion to emancipate. Seven days prior to the emancipation hearing the OCA shall file (1) the emancipation plan, (2) a description of DHS's reasonable efforts toward achieving the youth's permanency goals and successful transition to adulthood, and (3) affirmation that DHS provided the youth with all necessary documents in accordance with C.R.S. 19-3-702(4)(d).
- J. At the Emancipation Discharge Hearing the Court shall review the emancipation transition plan and consult with the youth about his or her readiness to emancipate. The Court shall determine if DHS has made reasonable efforts toward the youth's permanency goals and to prepare the youth for a successful transition to adulthood. The Court shall also determine if the youth has been provided with all necessary records and documents pursuant to C.R.S. 19-3-702(4)(d) and determine if the youth is enrolled in Medicaid. The Court shall advise the youth of his or her eligibility for former foster care Medicaid up to the youth's twenty-sixth birthday, advise the youth that he or she may reenter the FYTP up to his or her twenty-first birthday, and advise the youth of the necessity of keeping his or her contact information up-to-date with the department of health care policy and financing or the appropriate county department.
- K. At least ninety days prior to a youth turning twenty-one years old and aging out of the FYTP a motion shall be filed by the OCA requesting an emancipation discharge hearing.
- L. If a youth does not meet the eligibility requirements to continue in the FYTP, then the OCA shall file a motion to terminate jurisdiction and end services. The Court shall hold an emancipation discharge hearing at least thirty-five days after receipt of the motion to determine if the youth meets the requirements to stay in the FYTP. If the youth does not meet the requirements, then the court and parties must fulfill the requirements of an emancipation discharge hearing.

## QUALIFIED RESIDENTIAL TREATMENT PROGRAM (“QRTP”)

### Purpose

To determine what level of care is appropriate for the child.

### Process

1. The initial hearing must be held within sixty days of placement in a QRTP except the hearing must be held within thirty days of placement if either: (1) the child/youth/juvenile, Guardian ad Litem or any party objects to the placement, or (2) the child/youth/juvenile is placed in a QRTP and the independent assessment does not recommend a QRTP level of care.
2. At the initial hearing the court must find whether or not the QRTP provides the most effective and appropriate level of care for the child/youth/juvenile in the least restrictive environment and is consistent with the permanency plan (this is in addition to findings required in C.R.S. § 19-1-115).
  - a. The initial hearing may be done by the Administrative Review Division (ARD) if the juvenile is committed to DYS and no longer under the jurisdiction of the Court. QRTP reviews may be held as ADR reviews rather than Court reviews if the parties’ consent.
3. The independent assessment shall be filed under seal by the Department of Human Services.
  - a. The independent assessment shall include:
  - b. What level of care is recommended in the assessment?
  - c. Was the assessment done by a qualified individual?
  - d. Does the assessment determine/include/appropriately consider:
    - i. That the child/youth’s needs cannot be met in a non-QRTP setting?
    - ii. Child/youth-specific short-term and long-term goals?
    - iii. Family/child/youth placement preferences?
    - iv. Placement of siblings?
    - v. Was the child/youth interviewed?
    - vi. Does the QRTP individual work with the family/permanency team?
    - vii. Does the family agree with the recommendation?
    - viii. If not, the reasons why the preferences of the team and of the child/youth/juvenile were not recommended must be included.

4. If the Court does not approve placement, the child/youth/juvenile must be moved within 30 days of the decision.
5. While child/youth/juvenile remains in the QRTP, this decision shall be reviewed at every placement/review hearing, which shall occur at least every 90 days.
6. If a child/youth/juvenile is under the age of thirteen (13) and has been in the QRTP after six consecutive or nonconsecutive months, then the Director of CDHS shall approve the continued placement of the child/youth/juvenile in the QRTP.
7. If a child/youth/juvenile is thirteen years old or older and has been in a QRTP for twelve consecutive or eighteen nonconsecutive months, then the Director of CDHS shall approve the continued placement of the child/youth/juvenile in the QRTP.
8. Upon discharge from QRTP there shall be 6 months of family-based aftercare services.

### **Review of a QRTP Placement**

- a. Every ninety days (90) or less all required QRTP documents from the Agency and any considerations for the court shall be filed with the Court prior to each review hearing or permanency hearing.
- b. At every QRTP hearing the Court shall make the following inquiries and findings:
  - i. How long has the child/youth/juvenile been placed in a QRTP setting? Has discharge planning begun?
  - ii. Is the QRTP consistent with the short-and long- term goals of the specific child/youth/juvenile and ongoing assessment of the strengths and needs of the child/youth/juvenile is occurring?
  - iii. Does the child/youth/juvenile continue to need the support of a QRTP setting rather than being placed with parents, family, in a foster home, or a kinship placement?
  - iv. Ensure that the QRTP is not being used as a placement of containment, but rather for the purpose of providing treatment services to a child/youth/juvenile.
  - v. Identify specific treatment/services that the child/youth/juvenile needs at the QRTP and how long is the child/youth/juvenile expected to stay at the QRTP to receive that treatment and services.

## **DISCOVERY**

### **Purpose**

Provide records and documentation to requesting parties.

All discovery requests, as well as the procedures for discovery, shall be made in accordance with the current Case Management Order.

## **NOTICE OF FILING OF JUVENILE DECREE FOLLOWING ENTRY OF ALLOCATION OF PARENTAL RESPONSIBILITIES IN D&N CASE**

- A. The parent or person with whom the child will reside majority of the time pursuant to the allocation of parental responsibilities shall file the notice of juvenile decree into a new or existing domestic relations case, unless such person is not represented by legal counsel. When such person is not represented by legal counsel, the Guardian ad Litem or Counsel for Youth shall file the notice of juvenile decree into a new or existing domestic relations case. The Court waives all filing fees.
- B. At the time that the court enters the order of allocation of parental responsibility, the court shall identify which party and attorney are responsible for filing the notice of juvenile decree and such identification shall be clearly reflected in the minute orders of the court.


## **OTHER**

- A. All parties are required to file the original of any pleading in the Colorado Court's E-Filing system.
- B. For any contested hearing, all parties are required to follow the Case Management and Trial Management Order for Dependency and Neglect Proceedings.
- C. It is beneficial that one judge presides over both criminal felony cases and related dependency and neglect cases arising from the same allegations. Such cases shall be assigned pursuant to Fourth Judicial District Chief Judge Order 2012-4, Re: Assignment of Felony Criminal Cases and Related Dependency and Neglect Cases.

## AMENDMENTS TO THIS POLICIES AND PROCEDURES

Any interested party may petition the Court in writing to modify existing provisions or to add additional provisions to this document by submitting his/her request in writing to the Presiding Juvenile Judge. The Presiding Juvenile Judge shall consider the request and shall determine what action is warranted, to include meeting with representatives from the Office of the Guardian ad Litem, the Office of the County Attorney, and a Respondent Parents' Counsel, or The Best Practices Juvenile Court Steering Committee.

Signed this 25<sup>th</sup> date of July 2024.



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Erin Sokol  
Chief Judge



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Diana May  
Presiding Juvenile Judge