AGENDA
COLORADO SUPREME COURT
RULES OF JUVENILE PROCEDURE COMMITTEE

Friday, October 4, 2019, 9:30 AM
Supreme Court Conference Room 4th Floor
Ralph L. Carr Colorado Judicial Center
2 E. 14th Ave., Denver CO 80203
Supreme Court Conference Room

I. Call to Order

II. Chair's Report
A. Approval of the 8/2/19 meeting minutes [pages 2–5]

III. Old Business
A. Reviewing Current Rules
1. D&N specific C.R.J.P. 2.1 (appointment of counsel) [pages 6–7]
2. General Corrections to Set of Draft Rules (emailed-no feedback received)

IV. New Business
A. New Draft of Permanency Rule & Notice (with new statute) [pages 8–16]
B. Meeting Dates for 2020-*see* 2020 calendar (emailed separately)

V. Adjourn
A. Next Meeting: December 6, 2019, 9:30 AM, Supreme Court Conference Room

Conference call information

To join the call please **dial 720-625-5050** and, when prompted, enter **participant code, 62780446#** (don't forget the pound sign).

Adobe Connect link

https://connect.courts.state.co.us/wallace/

Colorado Supreme Court Rules of Juvenile Procedure Committee
Minutes of August 2, 2019 Meeting

I. Call to Order

The Rules of Juvenile Procedure Committee came to order around 9:30 AM in the Supreme Court Conference Room on the fourth floor of the Ralph L. Carr Colorado Judicial Center. Members present or excused from the meeting were:

Name	Present	Excused
Judge Craig Welling, Chair	X	
Judge (Ret.) Karen Ashby, Chair	X	
David P. Ayraud	X	
Magistrate Howard Bartlett		X
Jennifer Conn	X	
Sheri Danz	X	
Traci Engdol-Fruhwirth	X	
Claire Collins for Judge David Furman	X	
Ruchi Kapoor	X	
Shana Kloek		X
Wendy Lewis		X
Peg Long	X	
Judge Ann Meinster	X	
Judge Dave Miller	X	
Chief Judge Mick O'Hara		X
Trent Palmer		X
Professor Colene Robinson		X
Magistrate Fran Simonet		X
Judge Traci Slade	X	
Magistrate Kent S. Spangler		X
John Thirkell		X
Pam Wakefield		X
Non-voting Participants		
Justice Richard Gabriel, Liaison		X
Terri Morrison	X	
J.J. Wallace		X

Attachments & Handouts:
(1) Rule 2.1 (appointment of counsel) new draft
(2) HB19-1232 (ICWA)
(3) HB19-1219 (Permanency)

(4) Email on Implementation of Rules

II. Chair's Report

A. The 5/3/19 minutes were approved without amendment.

III. Old Business

A. Review of Present C.R.J.P

1. Rule 2.1 (appointment of counsel)

Ruchi Kapoor explained that the updated draft reflects the feedback at the last meeting that the rule should make clear that the provisions of the rule outlining termination of representation, withdrawal, and substitution only apply to counsel representing respondents and not to GALs. Accordingly, subsection two refers to counsel for respondents (the committee removed parent from the title because section 19-3-202, C.R.S. (2018) grants the right to counsel to parents, guardians, or legal custodians).

The committee also wants to distinguish counsel for respondents (guaranteed by the statute) from counsel for special respondents or intervenors. The committee decided that the civil rule governing entry of appearance and withdrawal, C.R.C.P. 121 § 1-1, would provide adequate procedures for counsel representing special respondents and intervenors and the draft should incorporate the rule by reference in the juvenile rule.

The committee examined the notice of withdrawal provision of the draft rule. The committee felt that subsection (V) should include a list or statement of all future court dates in addition to an advisement that the respondent is obligated to appear on those dates.

ORCP indicates that this notice provision will mostly apply to private counsel because its office usually substitutes counsel, but there are rare cases where clients run through all the county's RPCs or the client wants to appear pro se. Subsection (IV) says "[t]hat a hearing will be held," but there is no follow-up provision outlining hearing procedures in the draft rule. Committee members leaned toward only allowing withdrawal of a counsel for a respondent after a hearing and were hesitant to approve a process that does not involve a hearing and an advisement for the respondent.

Committee members explained that, when a respondent wants to fire counsel and represent themselves, the respondent is giving up an important statutory right. Committee members reiterated that most motions to withdrawal are addressed at the nearest upcoming court date, and the judge gives an *Arguello* style advisement to the respondent before granting withdrawal (if the withdrawal is at the request of the respondent). All the trial judges on the committee indicated that they never sign a withdrawal order without first giving an advisement. But, one committee member did raise the issue-what if counsel wants to withdraw and the client (parent, guardian, or legal custodian) cannot be found and advised?

Committee members felt comfortable with allowing substitution of counsel by written motion and order (without a hearing). Thus, the committee agreed that there should be a contrast between withdrawal situations (advisement of statutory right to counsel & hearing required) and substitutions (no hearing required).

The committee felt that the language of the termination of representation section should be modified to cover private counsel for respondents and should also include language making it discretionary with the court or attorney-client to continue representation.

2. Draft set of Rules

Feeback still welcome. Look at draft rules as situations arise-if an issue becomes apparent email chair & J.J.

The chair related that he was interested in working to formalize the draft. He wanted to reach out to a small group of people to go over draft; identify conflicts; make reconsiliations, standardize word usage, format, structure, etc. before producing a final product for committee's approval. The committee approved of this approach.

IV. New Business

1. Other Committee News: Civil Rules Forming Magistrate Rules Subcommittee

The chair explained that the civil rules committee is in the very early stages of forming a subcommittee to look at the magistrate rules. Other than looking at some issues related to domestic relations cases, no decision has been made on whether the subcommittee will recommend a broad overhaul of all rules or whether they will recommend narrow tweaks to the rules. However, given that the juvenile rules committee has noted tension with between the juvenile magistrate statute and the C.R.M., the chair wanted to reach out to the magistrate rules subcommittee to see if they will accept input from the juvenile rules committee. Ruchi Kapoor volunteered to assist the subcommittee. Judge Ashby did as well (as permitted by her schedule-she will be out of town for some of the fall and winter). Magistrate Spangler was unable to attend the meeting today, but works as a juvenile magistrate, so the committee suggested reaching out to him to gauge his interest.

2. HB19-1232 (ICWA)

The chair spoke with Judge Furman, chair of the subcommittee on ICWA. Judge Furman was working integrating the new statute in a stand-alone rule covering ICWA (not integrating ICWA into the various rules). The chair indicated that Judge Furman would be convening the subcommittee soon.

3. HB 19-1219 (Permanency)

Judge Meinster, chair of the permanency subcommittee, indicated that the subcommittee will be reconvening to examine the impact of the new legislation on the current version of the draft rule.

4. Need for Piecemeal Adoption of the Rules

The committee roundly rejected this idea. The committee believe the rules are too interdependent and integrated and, in other contexts in juvenile, a piecemeal approach has led to problems

V. Adjourn Next Meeting October 4, 2019

The Committee adjourned at 11:05 PM.

_____

Respectfully Submitted,
J.J. Wallace

RULE 2.1. ATTORNEY OF RECORD-

(a) Attorney of Record.

(1) Entry of Appearance. An attorney shall be deemed of record when the attorney appears personally before the court, files a written entry of appearance, or has been appointed by the court. Respondent Parent Counsel may also be appointed by the Office of Respondent Parents' Counsel as set out in chief justice directive.

(2) Appointment. Court staff shall timely notify an attorney appointed by the court. An order of appointment shall be entered into the court's electronic case management system.

(b) Appointment of Respondent Counsel in Article 3 Proceedings.

(1) Advisement. If a respondent appears in court without counsel, the court shall advise the respondent of the right to counsel. At the first appearance, if, upon the respondent's affidavit or sworn testimony and other investigation, the court finds that the respondent meets the eligibility requirements or exceptions set out in chief justice directive or statute, an attorney shall be appointed to represent the respondent at every stage of the proceedings.

(2) Request for Withdrawal of Respondent Counsel During Proceedings.

(A) Notice of Withdrawal. Except as provided in subsection (D), respondent counsel may withdraw from a case only after hearing and upon order of the court. Such approval shall rest in the sound discretion of the court and shall not be granted until the attorney seeking to withdraw has made diligent efforts to give actual notice to the client. A request to withdraw shall be in writing and shall be made as soon as practicable upon the lawyer becoming aware of the grounds for withdrawal. Such notice to withdraw shall include:

(I) That the attorney wishes to withdraw;

(II) That the court retains jurisdiction;

(III) That the respondent has the right to object to withdrawal within such time as permitted by the court, but no more than 7 days from the date of the notice;

(IV) That a hearing will be held and withdrawal will only be allowed if the court approves;

(V) A statement of all future court dates and that the respondent has the obligation to appear at all previously scheduled court dates;

(VI) That if the request to withdraw is granted, then the respondent will have the obligation to hire other counsel, request the appointment of counsel by the court, or elect to represent himself or herself.

(B) Hearing. The court must address the request to withdraw at the next previously scheduled hearing date or set the request for hearing. Before granting the motion to withdraw, the court must advise respondents of their right to counsel.

(C) Denial of Request to Withdraw. If the court denies respondent counsel's request to withdraw, then counsel may file an *ex parte* motion requesting an in-camera hearing in front of a new judge and detailing the reasons why the withdrawal is necessary.

(D) Substitution Without Leave of Court. An attorney may withdraw from a case, upon order of the court without hearing, where the withdrawing attorney has complied with all outstanding orders of the court and either files a notice of withdrawal where there is active co-counsel for the respondent represented by the withdrawing attorney or files a substitution of counsel signed by both the withdrawing and replacement attorney. The attorney seeking to substitute shall prepare a notification certificate stating that the above notification requirements have been met and the manner by which such notification was given to the respondent and setting forth the respondent's last known address and telephone number. The notification certificate shall be filed with the court and a copy mailed to the respondent and all other parties. The respondent and opposing counsel shall have 7 days prior to entry of an order permitting substitution, or such lesser time as the court may permit, within which to file objections to the substitution. After order permitting substitution, the respondent shall be notified by the substituting attorney of the effective date of the substitution

(I) **Substitution of ORPC Counsel.** With the pre-authorization of the Office of Respondent Parents' Counsel pursuant to chief justice directive, an appointed attorney can substitute for another appointed attorney by filing a "Notice of Substitution of Counsel by The ORPC." Such notice must have all the elements for substituting counsel set forth in this rule.

(3) Termination of Representation. Unless otherwise directed by the trial court or extended by an agreement between counsel and a respondent, counsel for a respondent's representation, whether retained or appointed, terminates at the following points:

(A) Certification of order allocating parental responsibilities to a district court case;
(B) Entry of an order terminating parental rights if no appeal is filed;
(C) Issuance of mandate by the appellate court;
(D Dismissal of a Respondent from the case; or
(E) As otherwise ordered by the court.

(c) Counsel for Special Respondents or Intervenors. Entry of appearance and withdrawal of counsel for special respondents or intervenors shall be as prescribed in C.R.C.P. 121 section 1-1.

Permanency

Permanency Hearings

(a) Hearing. The court should schedule the initial permanency hearing at the dispositional hearing.

(b) Notice. For any permanency hearing, the court or its designee must ensure that notice is provided pursuant to section 19-3-702(2)(a), C.R.S. Placement providers must provide notice of the hearing to the child or youth, and the guardian ad litem must ensure that the child or youth understands the notice to the extent practicable considering the child's or youth's development. The permanency hearing notice must substantially comply with Form ___ of the Appendix of Chapter 28.

(c) Return Home or Adopting One or More Permanency Goals. When proper notice has been provided pursuant to paragraph (b), and the court has timely received the petitioner's permanency plan and provided an opportunity to be heard to the persons present for the permanency hearing, the court must first determine whether the child or youth should be returned to the child's or youth's parent, named guardian, or legal custodian and, if so, the date on which the child or youth must be returned. If the child or youth cannot be returned to the physical custody of the child's or youth's parent or legal guardian on the date of the hearing, the court shall enter one or more permanency goals.

(d) Consultation with the Child or Youth. The court must consult with the child or youth in a developmentally-appropriate manner regarding the child's or youth's permanency goal.

(1) To satisfy the requirement of developmentally appropriate consultation, the court may:

(A) speak directly with the child or youth in person, by phone, or by interactive audiovisual device at the permanency hearing;

(B) elicit and consider a written statement from the child or youth, ensuring a copy of the written statement is provided to all parties;

(C) If the permanency goal is an Other Planned Permanent Living Arrangement, the court must ask the child or youth about his or her desired permanency goal.

(2) If the court does not consult with the child or youth directly or by a written statement, the guardian ad litem must:

(A) explain why the child or youth is unable to be consulted in a developmentally appropriate manner; or

(B) report to the court whether he or she consulted with the child or youth concerning the permanency goal; and

(C) explain why the child or youth is not consulting directly with the court; and

(D) state the child's or youth's wishes regarding the permanency goal.

(3) Nothing in this rule limits the court's ability to speak with a child or youth separately pursuant to section 19-1-106(5), C.R.S. If the court speaks separately with the child or youth the court must:

(A) make a verbatim record of the consultation which may be made available to the parties by court order.

(B) identify the statements it relies on and the weight the court gave the statements, if the court relies upon statements made by the child or youth while speaking separately in adopting a permanency goal for the child or youth.

(e) Other Planned Permanent Living Arrangement. Before entering a permanency goal of Other Planned Permanent Living Arrangement for youths 16 years of age or older who have co-occurring complex conditions that preclude any other permanency goal, the petitioner must document the compelling reasons why another permanency goal is not in the youths' best interests and the efforts made to find biological family members for the youths. The court must also ask the youth about his or her desired permanency outcome.

(f) Permanent Home Determination. For a child or youth in a case designated pursuant to 19-1-123 C.R.S.,

(1) the court must determine whether the child or youth is in a permanent home;

(2) if the child or youth is not in a permanent home, the court must find reasonable efforts were made to find the child or youth an appropriate permanent home and such a home is not currently available or that a child's or youth's needs or situation prohibit the child or youth from a successful placement in a permanent home;

(3) at the permanency hearing that occurs immediately prior to 12 months after the original placement outside the home, the court must identify whether the child or youth is in a placement that can provide legal permanency.

Comments

[1] Under paragraph (a), in cases where there is a deferred adjudication or an informal adjustment, scheduling the initial permanency hearing is not triggered by the dispositional hearing. In such cases, the initial permanency hearing should be scheduled within three months of the deferred adjudication or the informal adjustment.

Commented [wj1]: ? There appear to be two irreconcilable viewpoints on this comment. One holds that this conflicts with the statute. The other holds that it does not ?

[2] In assessing whether it is developmentally appropriate to provide notice or to consult with a child or youth under paragraphs (b) and (d), *see* Whitney Barnes, E., Khoury, A., Kelly, K. (2012). "Seen, Heard, and Engaged: Children in Dependency Court Hearings." *Technical Assistance Bulletin*. National Council of Juvenile and Family Court Judges, Reno, Nevada available at http://www.ncjfcj.org/sites/default/files/CIC_FINAL.pdf .

[3] Court records, including a record made under subsection (d), are not accessible to the public in dependency and neglect proceedings. *See* Chief Justice Directive 05-01 § 4.60(b)(2).

Permanency Hearing Form Notice

District Court, _____County, Colorado Court Address: _____ THE PEOPLE OF THE STATE OF COLORADO In the Interest of _____, Child, and Concerning, _____and, _____ Respondents.	▲ COURT USE ONLY ▲ Case Number: Division
NOTICE OF PERMANENCY HEARING	

Notice is given, pursuant to section 19-3-702(2)(a), C.R.S., that the court has set a permanency hearing in the above-captioned case on **[date], at [time] in [place]**.

I. At the permanency hearing, the court will first determine whether the child or youth should be returned to the child's or youth's parent, named guardian, or legal custodian and, if so, the date on which the child or youth must be returned. If the child or youth cannot be returned to the physical custody of the child's or youth's parent or legal guardian on the date of the hearing, the court shall enter one or more permanency goals which include: return home; adoption with a relative; permanent placement with a relative; adoption with a nonrelative; permanent placement with a nonrelative; or Other Planned Permanent Living Arrangement. The court may also take up any other matter contemplated by section 19-3-702, C.R.S.

II. At the permanency hearing, the child's or youth's parents or guardians have the following rights:
   1. The right to be present at the permanency hearing and the right to be heard.
   2. The right to notice of the petitioner's proposed permanency plan at least five working days before the hearing.
   3. The right to be represented by counsel at the hearing. Respondents found to be indigent may request that a lawyer be appointed to represent them at no expense.

Parents or guardians who are under 18 years old, have the right to have a guardian ad litem appointed for them to represent their best interests.

4. The right to have the hearing in front of a district court judge instead of a district court magistrate. The right to a hearing in front of a judge will be waived unless (1) there is a request that the permanency hearing be held before a judge made at the time the hearing is set, if the child's or youth's parent or guardian or his or her lawyer is present at the time the permanency hearing is set; or (2) there is a request that the permanency hearing be held before a judge within seven days after receiving notice that the matter has been set for hearing before a magistrate and the hearing was set outside of the presence of the child's or youth's parent or guardian or his or her lawyer.

III. At the permanency hearing, the child or youth has the right to be present at the hearing and the right to be heard at the hearing, the right to have a guardian ad litem appointed to represent the child's or youth's best interests, and the right to consult with the court about the child's or youth's permanency goal in an developmentally appropriate manner. If the permanency goal is an Other Planned Permanent Living Arrangement, the court must ask the child or youth about his or her desired permanency goal. The child or youth may also ask any person to attend the permanency hearing that he or she wishes to be present.

If there are questions about these rights, those questions can answered by counsel, or may be raised at the permanency hearing.

CERTIFICATE OF SERVICE

I certify that on _____ (date) a true and accurate copy of the **NOTICE OF PERMANENCY HEARING** was filed with the court and served on the Petitioner, Respondent(s), Guardian ad Litem(s), Persons with whom the child or youth is placed, the child or youth, and _____ (other) in the following manner:
☐Hand Delivery, ☐E-Filed, ☐Email, ☐Faxed to this number _____, ☐Other manner _____ (describe) or ☐by placing it in the United States mail, postage pre-paid, and addressed to the following:

_____
_____
_____

_____
Signature

West's Colorado Revised Statutes Annotated
Title 19. Children's Code (Refs & Annos)
Article 3. Dependency and Neglect (Refs & Annos)
Part 7. Review of Placement

C.R.S.A. § 19-3-702

§ 19-3-702. Permanency hearing

Effective: August 2, 2019
Currentness

(1)(a) In order to provide stable, permanent homes for every child or youth placed out of the home, in as short a time as possible, a court shall conduct a permanency planning hearing. The court shall hold the permanency planning hearing as soon as possible following the initial dispositional hearing pursuant to this article 3; except that the permanency planning hearing must be held no later than ninety days after the initial decree of disposition. After the initial permanency planning hearing, the court shall hold additional hearings at least every six months while the case remains open or more often in the discretion of the court, or upon the motion of any party. When possible, the permanency planning hearing must be combined with the in-person six-month review as provided for in section 19-1-115(4)(c) or subsection (6)(a) of this section. The court shall hold all permanency planning hearings in person, provide proper notice to all parties, and provide all parties the opportunity to be heard. The court shall consult with the child or youth in a developmentally appropriate manner regarding the child's or youth's permanency goal.

(b) If the court finds that reasonable efforts to reunify the child or youth and the parent are not required pursuant to section 19-1-115(7) or if there is a finding that no appropriate treatment plan can be devised pursuant to section 19-3-508(1)(d)(I), the court shall hold a permanency planning hearing within thirty days after the finding. If the court finds that reasonable efforts to reunify the child or youth and the parent are not required and a motion for termination has been filed pursuant to section 19-3-602, the permanency planning hearing and the hearing on the motion for termination may be combined, and the court shall make all determinations required at both hearings in the combined hearing.

(2)(a) When the court schedules a permanency planning hearing pursuant to this section, the court or designee of the court shall promptly issue a notice stating the purpose of the hearing. The notice must set forth the constitutional and statutory rights of the child's or youth's parents or guardian and the statutory rights of the child or youth. The notice of the hearing must comply with the requirements stated in section 19-3-502 (7) and must be sent to parents or guardians, placement providers, and named children or youth.

(b) The county department of human or social services shall propose a permanency plan for each child or youth, which plan must be completed and submitted to the court in the family services plan no later than five days in advance of the permanency planning hearing.

(3) At any permanency planning hearing, the court shall first determine if the child or youth should be returned to the child's or youth's parent, named guardian, or legal custodian and, if applicable, the date on which the child or youth must be returned. If the child or youth cannot be returned home, the court shall also determine whether reasonable efforts have been made to find a safe and stable permanent home for the child or youth. The court shall not delay permanency planning by considering

the placement of children or youth together as a sibling group. At any permanency planning hearing, the court shall 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) Whether ongoing efforts have been made to identify kin and relatives that are available to be a permanent placement for the child or youth;

(d) 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 interests of the child or youth;

(e) 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

(f) Whether the current placement of the child or youth could be a permanent placement, if necessary.

(4)(a) If the child or youth cannot be returned to the physical custody of the child's or youth's parent or legal guardian on the date of the hearing, the court shall enter one or more of the following permanency goals, of which subsections (4)(a)(I) to (4)(a)(V) of this section may be adopted as concurrent goals pursuant to section 19-3-508(7):

(I) Return home;

(II) Adoption with a relative;

(III) Permanent placement with a relative through legal guardianship or allocation of parental responsibilities;

(IV) Adoption with a nonrelative;

(V) Permanent placement with a nonrelative through legal guardianship or allocation of parental responsibilities;

(VI)(A) Other planned permanent living arrangements either through emancipation or long-term foster care.

(B) Other planned permanent living arrangements may only be used as a permanency goal for children or youth in exceptional circumstances for children sixteen years of age or older who have co-occurring complex conditions that preclude their return home, their adoption or legal guardianship, or allocation of parental responsibilities; or for children and youth who are in the unaccompanied refugee minor program, regardless of their age.

(C) Other planned permanent living arrangements may not be used as a concurrent goal.

(D) The court shall ask the child or youth about his or her desired permanency outcome when considering other planned permanent living arrangements.

(b)(I) The department shall document in the family services plan the compelling reasons why it is not in the best interest of the child or youth to return home, be placed for adoption, be placed with a legal guardian, or be placed with a fit and willing relative. In addition, the department shall document intensive, ongoing, and unsuccessful efforts made to return the child or youth home or to a secure placement with a fit and willing relative, including adult siblings; a legal guardian; or an adoptive parent, including efforts that utilize search technology that includes social media to find biological family members for the children or youth.

(II) The department shall document in the family services plan and the court shall review whether the child's or youth's placement is following the reasonable and prudent parent standard and whether the child or youth has regular, ongoing opportunities to engage in age-appropriate activities.

(c) Prior to closing a case before a child's eighteenth birthday, the court or the child's guardian ad litem shall notify the child that he or she will lose the right to receive medicaid until the maximum age provided by federal law if the case is closed prior to the child's eighteenth birthday.

(d) Every child who is eighteen years of age or older who is leaving foster or kinship care must be provided with his or her birth certificate, social security card, health insurance information, medical records, either a driver's license or state-issued identification card, and proof of foster care.

(e) If the court finds that there is not a substantial probability that the child or youth will be returned to a parent or legal guardian within six months and the child or youth appears to be adoptable and meets the criteria for adoption in section 19-5-203, the court may order the county department of human or social services to show cause why it should not file a motion to terminate the parent-child legal relationship pursuant to part 6 of this article 3. Cause may include, but is not limited to, any of the following conditions:

(I) The parent or legal guardian has maintained regular parenting time and contact with the child or youth, and the child or youth would benefit from continuing this relationship;

(II) A child who is twelve years of age or older objects to termination of the parent-child legal relationship;

(III) The child's foster parents are unable to adopt the child because of exceptional circumstances that do not include an unwillingness to accept legal responsibility for the child. The foster parents must be willing and capable of providing the child with a stable and permanent environment, and it must be shown that removal of the child from the physical custody of his or her foster parents would be seriously detrimental to the emotional well-being of the child; or

(IV) The criteria for termination in section 19-3-604 have not yet been met.

(5) For a child or youth in a case designated pursuant to section 19-1-123 only:

(a) A permanent home is the place in which the child or youth may reside if the child or youth is unable to return home to a parent or legal guardian. If the court determines by a preponderance of the evidence that a permanent home is not currently available or that the child's or youth's current needs or situation prohibit placement, the court must be shown and the court must find that reasonable efforts, as defined in section 19-1-103(89), were made to find the child or youth an appropriate permanent home and such a home is not currently available or that a child's or youth's needs or situation prohibit the child or youth from a successful placement in a permanent home.

(b) Regardless of any permanent home findings made pursuant to this section, reasonable efforts shall continue to be made to return the child or youth home unless the court has previously found or finds that reunification is not an option pursuant to section 19-1-115(7). Any findings by the court regarding a permanent home shall not delay or interfere with reunification of a child or youth with a parent or legal guardian.

(c) At a permanency planning hearing that occurs immediately prior to twelve months after the original placement of the child or youth out of the home, the court shall make a finding identifying whether the child or youth is in a placement that can provide legal permanency. The court must make this finding to ensure that a child or youth who has been removed from his or her home is placed in a permanent home as expeditiously as possible.

(d) The court shall review the case at a permanency planning hearing at least every six months until the court finds that the child or youth is in a permanent home. The permanency planning hearings shall continue as long as the court is unable to find that the child or youth is in a permanent home. At each hearing, the court must be provided evidence that a child or youth is in a permanent home or that reasonable efforts, as defined in section 19-1-103(89), continue to be made to find the child or youth an appropriate permanent home and such a home is not currently available or that a child's or youth's needs or situation prohibit the child or youth from successful placement in a permanent home.

(e) At each permanency planning hearing, the caseworker and the child's or youth's guardian ad litem shall provide the court with a written or verbal report specifying what efforts have been made to identify a permanent home for the child or youth and what services have been provided to the child or youth to facilitate identification of a permanent home.

(f) In determining whether a child or youth is in a permanent home, the court shall consider placement of the children or youth together as a sibling group pursuant to section 19-3-213.

(6) If a placement change is contested by a named party or child or youth and the child or youth is not reunifying with a parent or legal guardian, the court shall consider all pertinent information, including the child's or youth's wishes, related to modifying the placement of the child or youth prior to removing the child or youth from his or her placement, and including the following:

(a) An individualized assessment of the child's or youth's needs created pursuant to Title IV-E of the federal “Social Security Act”, as amended, and regulations promulgated thereunder, as amended;

(b) Whether the child's or youth's placement at the time of the hearing is a safe and potentially permanent home for the child or youth;

(c) The child's or youth's actual age and developmental stage and, in consideration of this information, the child's or youth's attachment needs;

(d) Whether the child or youth has significant psychological ties to a person who could provide a permanent home for the child or youth, including a relative, and, if so, whether this person maintained contact with the child or youth during the child's or youth's placement out of the home;

(e) Whether a person who could provide a permanent home for the child or youth is willing to maintain appropriate contact after an adoption of the child or youth with the child's or youth's relatives, particularly sibling relatives, when such contact is safe, reasonable, and appropriate;

(f) Whether a person who could provide a permanent home for the child or youth is aware of the child's or youth's culture and is willing to provide the child or youth with positive ties to his or her culture;

(g) The child's or youth's medical, physical, emotional, or other specific needs, and whether a person who could provide a permanent placement for the child or youth is able to meet the child's or youth's needs; and

(h) The child's or youth's attachment to the child's or youth's caregiver at the time of the hearing and the possible effects on the child's or youth's emotional well-being if the child or youth is removed from the caregiver's home.

Credits

Added by Laws 1989, H.B.1286, § 2, eff. April 23, 1989. Amended by Laws 1992, H.B.92-1287, § 13, eff. July 1, 1992; Laws 1993, H.B.93-1058, § 4, eff. April 19, 1993; Laws 1993, S.B.93-25, § 20, eff. July 1, 1993; Laws 1994, H.B.94-1029, § 207, eff. July 1, 1994; Laws 1994, H.B.94-1178, § 9, eff. July 1, 1994; Laws 1998, Ch. 311, § 9, eff. July 1, 1998; Laws 1999, Ch. 233, § 9, eff. July 1, 1999; Laws 2000, Ch. 137, § 5, eff. July 1, 2000; Laws 2001, Ch. 241, § 11, eff. June 1, 2001; Laws 2003, Ch. 376, § 2, eff. July 1, 2003; Laws 2005, Ch. 194, § 4, eff. July 1, 2005; Laws 2007, Ch. 260, § 9, eff. May 22, 2007; Laws 2008, Ch. 329, § 2, eff. July 1, 2008; Laws 2015, Ch. 328, § 3, eff. June 5, 2015; Laws 2018, Ch. 38, § 63, eff. Aug. 8, 2018. Repealed and reenacted by Laws 2019, Ch. 237, § 1, eff. Aug. 2, 2019.

C. R. S. A. § 19-3-702, CO ST § 19-3-702

Current through legislation effective Sept. 1, 2019 of the 2019 Regular Session. Some statute sections may be more current. See credits for details.

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