

MEMORANDUM

TO: Charles A. Buss, Chief Judge
FROM: Jane Westbrook, Magistrate
DATE: February 21, 1997
RE: Plan for Expedited D & N Processing

Processing of Dependency and Neglect Cases Resulting in Out of Home Placements:

1. ***Shelter Hearings.*** These hearings are set within 48 hours, exclusive of weekends and holidays, from the time custody is taken. The hearings are not continued except upon a parent's request or for additional evidence at a hearing. If continued, they are generally within two days, and in no event for more than one week. We attempt to have guardians ad litem present if time for notice permits. Under appropriate circumstances, the County Attorney will prepare a petition for filing at the shelter hearing, and the Court will advise parent (s) of their rights at that time. In most cases in which the petition is not filed at the shelter hearing, it will be filed not later than 10 working days from the date of the custody order. The courts shall provide parents who appear for shelter hearings with applications for court-appointed counsel and instructions for filing these applications. The court and caseworker shall inquire of any person attending the shelter hearing of any potential relative placements for the child (ren) so that investigation of these potential placements may begin immediately. When children remain in out-of-home following a shelter hearing, the court shall encourage the respondents to communicate regularly with the case worker and the guardian ad litem so that treatment plans may be determined. The court shall enter protective orders requiring certain types of compliance, where appropriate, at the shelter hearing (e.g. substance abuse testing/evaluation/treatment; mental health evaluations/treatment; parenting assistance).

2. ***First Hearings.*** When the County Attorney files a petition, the court will appoint a guardian ad litem at the same time as entering its order on the filing of the petition. The advisement hearing shall be set within 30 days from the date the Court's order was signed unless special circumstances exist. If a parent requests court appointed counsel, the applications shall be sent immediately by the clerks to the magistrate for review. If the applicant is eligible, the court shall appoint counsel and notify counsel and the parent of the appointment and of the advisement hearing date. The advisements are generally set at 8:15 on the magistrate's calendar so that the times do not generally conflict with trials in which the attorneys may be involved. Parents are encouraged to enter pleas at the first hearing; however, if a return is required to allow a parent to obtain counsel or to have counsel appointed, it will be set so that not more than 30 days have elapsed from the date the first respondent was served with the petition – generally within not more that 10 days from the first hearing.

3. ***Adjudications/Dispositions.***

a. Should the plea be a denial of the petition, the matter will be set for a trial 90 days from the date of service. The parties also set a settlement conference within not more than 30 days to attempt to resolve the matter without a trial. If such a settlement is reached, the parties are to submit written pleas, waivers and treatment plans to the court unless special circumstances exist. Social studies shall be submitted not more than 45 days from the entry of the judge's adjudication/disposition order, and a review by motion or hearing shall be held within 90 days of the order date.

b. Should the case proceed to trial, the disposition hearing shall be held within 30 days of the adjudication order entered by the judge. The treatment plan and social study shall be provided to all parties and the court not less than 5 days prior to the disposition hearing.

c. If the case is resolved as to all respondents, either by the entry of pleas of either admission or no contest or by defaults, at the first hearing or the return advisement, the court shall enter an adjudication order at that time. A disposition hearing shall be set to occur within 30-45 days. Respondents shall be ordered by the court to provide the necessary information to the caseworker so that s/he may prepare the social study and treatment plan. The social study and treatment plan shall be distributed to all parties and the court not less than 5 days prior to the disposition hearing.

d. If the case is not resolved as to all respondents by entry of pleas or defaults, the court shall order those respondents who have admitted or pled no contest to provide the MCDHSS with the necessary information for the social study and to begin in all recommended components of the treatment plan suggested by the caseworker.

4. ***Permanency Planning.*** The court shall "tickle" and monitor out-of-home placements so that if children continue to remain out of their parent (s)' home(s) there are regular checks on their progress and so that they, in no event, remain in out-of-home for more than 18 months without a permanency plan in place. In those cases in which it is quite apparent that a termination of parental rights, a relinquishment, or a long-term out-of-home placement is most likely, the court will encourage permanency planning at the earliest appropriate time.

5. ***Termination Hearings.*** The court will endeavor to set termination of parental rights hearings as a priority hearing and at the earliest available time on all parties calendars.

6. ***Reviews.*** If reviews are set to be filed as motions with progress reports rather than as hearings, the court shall set a date for the filing of the motion and report. The county attorneys and MCDSS shall file the motions and reports on the dates ordered by the court. If they fail to do so, sanctions may be imposed. The court shall set reviews on a not-more-than six month basis. Where the children remain in out-of-home, the court will require hearings, rather than paper reviews, whenever it finds that a hearing would be in the best interests of the children.