



20TH JUDICIAL DISTRICT OF COLORADO
ADMINISTRATIVE ORDER 99-102
SUBJECT: District Plan For Handling Dependency And Neglect Cases

To: Twentieth Judicial District Judges, Magistrates, Judicial Administrator, Clerk of Court, Law Enforcement Agencies, Boulder County Department of Housing and Human Services, County Attorney, D&N/GAL Contract Attorneys, Bar Association, Boulder County Foster Care Association, and Voices For Children CASA

From: Roxanne Bailin
District Judge

DATE: May 28, 1999 Chief
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I. Introduction

The procedure for handling D&N cases in the Twentieth Judicial District of Colorado is set forth below. This plan incorporates the requirements of Colorado Statutes, Chief Justice Directives 98-02 and 96-08, the recommendations in the *Child Abuse and Neglect Cases in the Colorado State Courts* report dated June 27, 1996, and the experiences of other jurisdictions in expediting D&N cases. The 20th Judicial District has designated that all D & N cases fall under the Expedited Permanency Planning provisions of Colorado Statutes.

The plan was drafted collaboratively with representation from the court, the Boulder County Department of Housing and Human Services (BCDHHS), the county attorney's office, Voices For Children CASA, guardians ad litem, and respondent parents' counsel. It is designed to facilitate the achievement of a permanent home within 12 months for every child (regardless of age) through the early development of treatment plans, early provision of services, and meaningful reviews of the progress toward treatment and permanency goals on a periodic basis. Experience suggests that there are certain keys to expediting permanency in D&N cases.

- "Front loading" D&N cases (early identification, notification and involvement of parents and interested family members in the D&N process, early assessment, and early development of meaningful treatment plans)
- Making every hearing a meaningful event with defined objectives and/or specific actions to be taken
- Affording the parties opportunities to collaborate and to resolve issues consensually in a non-adversarial, problem-solving environment

- Focusing on permanency from the beginning and at every stage of the case

This plan will result in the following benefits to all parties involved in the D&N process:

- Expedited placement of children in safe and permanent homes.
- Earlier development of treatment plans and provision of services.
- Greater "ownership" of the treatment plan by respondent parents who have participated in its development.
- Earlier identification of high-risk cases and concurrent permanency planning or termination as appropriate.
- Reduced foster care costs.
- More productive use of professionals' limited time through better coordination and consolidation of Case Management Conferences, mediation sessions, Pre-Court Meetings Family Group Decision Making, and other alternative dispute resources.
- More efficient use of judicial resources and professionals' time by reducing the number of court appearances.
- More efficient docket management and case tracking.
- Greater accountability of all parties involved in the D&N process.

The following sections outline the process for handling D&N cases in the twentieth Judicial District.

II. Temporary Custody/Advisement Hearing

A. Purpose

To make a determination as to temporary custody and appropriate placement of the child. To ensure that all respondent parents are identified, represented by counsel and understand the D&N process (including potential consequences of the D&N petition and permanency options). To facilitate early case assessment and provision of services.

B. Process

1. Timing

Removal Cases. In cases which are initiated by removal of a child, the Temporary Custody/Advisement hearing will be held within 72 hours of removal of the child (exclusive of weekends and holidays), unless an earlier hearing is mandated by statute.

Non-Emergent Cases. In cases initiated by the filing of a D & N petition where there has been no removal of a child, a hearing will be held on the soonest available hearing date from when the intake has been filed with the Court. Hearings will be held on Monday and Wednesday. There will be no non-emergent hearings on Fridays.

2. Critical Tasks. The following tasks will be completed at or before the Temporary Custody/Advisement hearing:

- a. Appoint and notify GAL.
- b. Appoint and notify respondent parents' counsel.
- c. File and serve D&N petition (must be submitted to court no later than 11:00 a.m. on the day of the hearing.)
- d. Identify all parents (including putative fathers).
- e. Identify potential kinship placements (if removal has occurred).
- f. Prepare and file BCDHHS intake report.
- g. Determine cases that qualify for a Pre-Court Meeting and hold meeting.
- h. In removal cases, give Respondents kinship affidavit form.
- i. Give all parents the ICWA ancestry form.

3. In removal cases, all respondent parents will be notified of the Temporary Custody/Advisement hearing by the BCDHHS. Efforts will be made to ensure that respondent parents appear at the hearing if at all possible so that the D&N petition can be served, the parties advised, and counsel appointed. Respondent parents' counsel will be available to meet with prospective clients at least one hour prior to the hearing. Applications for Court-Appointed Counsel, Orders Appointing Counsel, Temporary Custody Hearing and Advisement Information forms, and affidavits regarding putative fathers and potential kinship placements, and ICWA ancestry will be completed at or before the hearing or at a time ordered by the Court.

4. The following actions will be taken at the Temporary Custody/Advisement hearing

- a. Formally appoint GAL.
- b. Advise respondents as to their rights, potential consequences of the D&N petition, and permanency options.
- c. Formally appoint respondent parents' counsel, if eligible.
- d. Hold Pre-Court meeting if family qualifies.

- e. File and serve D&N petition
- f. If removal has occurred, determine whether continuation of the child in the home would be contrary to the child's best interests (C.R.S. §19-1-115(6)(a)).
- g. If removal has occurred, determine whether or not reasonable efforts have been made by BCDHHS to prevent or eliminate the need for removal or determine that an emergency situation exists which requires immediate temporary removal and that it is reasonable for BCDSS not to make efforts to prevent removal due to the emergency situation (C.R.S. §19-1-115(6)(b)).
- h. If removal has occurred, determine whether reasonable efforts by BCDHHS have been or will be made to reunify the child and the family or determine that efforts to reunite the family have failed (C.R.S. §19-1-115(6)(c)).
- i. If removal has occurred, determine whether procedural safeguards with respect to parental rights have been applied in connection with the removal, a change in placement, and any determination affecting parental visitation (C. R. S. §19-1-115 (6)(d)).
- j. Enter protective orders as needed including orders regarding temporary custody, visitation, evaluations, release of familial information, and provision of services. Any information gained through court ordered evaluations, including but not limited to substance abuse and psychological evaluations will not be used against the Respondent at an Adjudicatory Hearing, but may be used for treatment planning purposes.
- k. Inquire as to identity and location of respondent father(s) or respondent mother(s) if not named in the petition and amend petition accordingly.
- l. Inquire as to the whereabouts of non-appearing parents and efforts to locate and notify them. Authorize service by publication, if appropriate.
- m. Inquire as to potential kinship placements, order kinship affidavit completion and return, inquire as to status of investigations regarding kin, and the need for Family Group Decision Making. Enter any order to expedite this process including the authorization of BCDHHS to share information regarding the child and the case with kin when exploring possible placement. (Order should be flexible enough to permit change of placement to a relative prior to the next scheduled hearing upon agreement of the GAL and caseworker, noting that parents may request a hearing if they do not approve of the change.)

- n. Inquire as to applicability of the Indian Child Welfare Act and order the Native American Ancestry form completion and return.
- o. Set the Adjudicatory Hearing, or if necessary, the Adjudicatory Trial. Parties can agree to set the Dispositional Hearing within 30 days.

5. Non-Appearing Respondents. In the event a respondent parent who has not been served does not appear at a Temporary Custody/Advisement hearing, a continued Advisement hearing is to be set within 30 days for the purpose of advisement and appointment of counsel or the respondent being set will be advised of the next scheduled hearing. Notice of the hearing and file D&N petition (in removal cases) is to be served on any non-appearing respondent by the county attorney's office.

III. Adjudicatory Hearing/Trial

A. Purpose.

To enter an admission regarding the petition (hearing) or to contest the petition and obtain a judicial determination whether the allegations have been proven (trial).

B. Process.

1. Timing. The Adjudicatory hearing will be held within 30 days of the filing of the D&N. If the matter is contested, every effort will be made to set the Adjudicatory trial within 45 days of the filing of the D&N petition in a removal case and 60 days in a non-emergent case. The court encourages parties to participate in a Family Group Decision Making or mediation session prior to this hearing or trial and all future hearings or trials, whenever appropriate.

- a. Family Group Decision Making. Family Group Decision Making is a mechanism employed by BCDHHS through which the extended family is involved in key decisions in D&N cases. The process promotes partnerships, integrates services, reduces the likelihood of unnecessary placements, and improves the quality of placement and service provision decisions. It is most appropriately employed where there are interested kin involved in the case who could offer family-based placement options on a short term or permanent basis or where respondent parents are interested in exploring all non-reunification permanency options for their children. Referrals are made through the caseworker. Following a Family Group Decision Making session, the facilitator will file a report with the court indicating the date the conference was held, the purpose of the session, the parties who attended, and the case name and court case number. Any stipulation will be drafted by a designated party, reviewed by parties, and submitted to the court as soon as possible.

- b. Mediation. In mediation, the mediator is a trained, neutral third party facilitator who helps parties identify issues that need to be addressed and come to mutually acceptable agreements. Mediation services are most often used where there is conflict over the terms of the adjudication and/or disputes regarding formulation of and continuing compliance with the treatment plan and the permanency goal. Mediation is to be completed prior to the Pre-Trial Settlement Conference in contested Adjudication cases. Mediation is scheduled if there is an agreement from all parties to proceed or if the court orders it. Participation of all parties is required. Following a mediation session, the facilitator will file a report with the court indicating the date the conference was held, the purpose of the session, the parties who attended, and the case name and court case number. Any stipulation will be drafted by a designated party, reviewed by parties, and submitted to the court as soon as possible.
2. In uncontested and/or non-emergent cases, the parties are encouraged to combine adjudication and disposition at the Adjudicatory hearing. If parties are able to combine this hearing, a treatment plan will be filed by BCDHHS and served on the parties and counsel at least one week prior to the Adjudicatory hearing.
 3. The following actions will be taken at the Adjudicatory hearing:
 - a. Accept admissions to the petition.
 - b. Enter default judgment as to any non-appearing party who has been served.
 - c. If removal has occurred or placement is continued, determine the appropriateness of the placement and whether the child's continuation in or return to the home would be contrary to the child's best interests (C.R.S. §19-1-115(6)(a)).
 - d. If removal has occurred or placement is continued, determine whether reasonable efforts have been made by BCDHHS to prevent or eliminate the need for removal or determine that an emergency situation exists which requires immediate temporary removal and that it is reasonable for BCDHHS not to make efforts to prevent removal due to the emergency situation (C.R.S. §19-1-115(6)(b)).
 - e. If removal has occurred or placement is continued, determine whether reasonable efforts by BCDSS have been or will be made to reunify the child and the family, or determine that efforts to reunite the family have failed (C.R.S. §19-1-115(6)(c)).
 - f. If removal has occurred or placement is continued, determine whether or not procedural safeguards with respect to parental rights have been

applied in connection with the removal, a change in placement, and any determination affecting parental visitation (C.R.S. §19-1-115(6)(d)).

- g. Authorize service by publication where appropriate (default judgment is to be entered at the next scheduled hearing).
- h. If a contested adjudicatory jury or court trial is requested, enter a pre-trial order with procedural deadlines. The court will inquire as to whether or not a case management conference would be useful in resolving the issues that would be before the court at trial.
- i. If necessary, set the Dispositional hearing within 30 days.
- j. If the treatment plan is submitted at this hearing:
 - (1) Inquire as to all parties' participation in the development of the treatment plan. If the plan is contested, hear issues of dispute and make a judicial determination as to what the treatment plan should include. If additional evidence is required for determination the parties may request a contested hearing.
 - (2) Review the terms of the treatment plan and inquire as to parties' willingness and ability to comply with the treatment plan.
 - (3) Advise the respondents as to the potential consequences of not complying with the treatment plan, including termination of parental rights.
 - (4) Order the treatment plan or make a finding that no appropriate treatment plan can be developed under the circumstances.

Cases in which no appropriate treatment plan can be developed for either parent due to abandonment under C.R.S. 19-3-604(1)(a) or parental unfitness under C.R.S.19-3-604(1)(b) require that a Permanency Planning hearing be set within 30 days of the finding. The Permanency Planning hearing will be vacated if a motion to terminate parental rights is filed.
 - (5) Set the Permanency Planning hearing, if a removal case.
 - (6) Set the next written court report and review date.
- k. Inquire as to the applicability of ICWA.

4. If the parties proceed to the Adjudicatory trial and the allegations in the case are sustained at trial, the judge will proceed with the following actions:
 - a. Enter default judgment as to any non-appearing party who has been served.
 - b. If removal has occurred or placement is continued, determine the appropriateness of the placement and whether the child's continuation in or return to the home would be contrary to the child's best interests (C R S. §19-1-115(6)(a))
 - c. If removal has occurred or placement is continued, determine whether reasonable efforts have been made by BCDSS to prevent or eliminate the need for removal or determine that an emergency situation exists which requires immediate temporary removal and that it is reasonable for BCDSS not to make efforts to prevent removal due to the emergency situation (C.R.S. §19-1-115(6)(b)).
 - d. If removal has occurred or placement is continued, determine whether reasonable efforts by BCDSS have been or will be made to reunify the child and the family or determine that efforts to reunite the family have failed (C.R.S. §19-1-115(6)(c)).
 - e. If removal has occurred or placement is continued, determine whether procedural safeguards with respect to parental rights have been applied in connection with the removal, a change in placement, and any determination affecting parental visitation (C.R.S. §19-1-115(6)(d)).
 - f. Authorize service by publication where appropriate (default judgment is to be entered at the next scheduled hearing).
 - g. Set the Dispositional hearing within 30 days if parties are not ready to proceed to disposition at this hearing. If parties are prepared to proceed to disposition, complete the actions listed under section III. B. 1. j.

IV. Case Management Conferences

A. Purpose

To facilitate communication among the parties in cases experiencing unnecessary delays, inform parties regarding the court's expectations and time frames for expediting cases, and clarify judicial concerns that are more appropriately addressed in a non-hearing arena. The D&N case manager will facilitate these conferences

B. Process

1. A case management conference is a meeting facilitated by the D & N Magistrate at which the parties have an opportunity to share information and to identify and resolve issues in cases experiencing unnecessary delays following adjudication. Participants required to attend under the court order include the respondent parents, caseworkers, GAL, counsel, and all other parties to the case. Other non-party participants may be requested to attend including the child (if age appropriate), interested family members, service providers, therapists, foster parents or other custodial adults, CASA volunteer, probation officer, and any other person working with the child and/or family.
2. At the court's discretion, a case management order may be issued during a hearing on a case because of judicial concerns or at the verbal or written request of one or more of the parties involved. At the court's discretion, a case management order may be issued at any time in the case process because of judicial concerns or at the written request of one or more of the parties involved.
3. Following the case management conference, the Magistrate will produce a report indicating the parties in attendance and not in attendance, the issues addressed and whether each issue was resolved, and the responses to any specific judicial concerns. Any stipulation will be drafted by a designated party, reviewed by parties, and submitted to the court as soon as possible.
4. In setting the case management conference, every effort will be made to accommodate the schedules of the parties. A case management conference that is ordered during a hearing will be set in court. All other conferences will be scheduled by the Court's clerk upon receipt of a motion requesting a case management conference as soon as possible and should be held prior to the next scheduled hearing or written review.

V. Dispositional Hearing

A. Purpose

To order the treatment plan and to establish the parties' commitments and abilities to comply with the terms of the treatment plan.

B. Process

1. Timing. The Dispositional hearing will be held within 30 days of the Adjudicatory hearing. The court encourages parties to participate in a Family Group Decision Making or mediation session prior to this hearing or trial whenever appropriate. (See section 111.B.1.a and b for information on mediation and Family Group Decision Making.)
2. A treatment plan will be prepared by the caseworker, filed with the court, and provided to the parties and counsel at least one week prior to the Dispositional hearing.
3. The following actions will be taken at the Dispositional hearing:

- a. Inquire as to all parties' participation in the development in the treatment plan. If the plan is contested, hear disputed issues and make a Judicial determination as to what the treatment plan should include. If additional evidence is required for determination the parties may request a contested hearing.
- b. Review the terms of the treatment plan and inquire as to the parties' willingness and ability to comply with the treatment plan.
- c. Advise the respondents as to the potential consequences of not complying with the treatment plan, including termination of parental rights.
- d. If psychological evaluations or substance abuse evaluations are ordered as part of the treatment plan, the parties shall follow 20th Judicial District of Colorado Administrative Order 03-107 for their distribution to the appropriate parties.
- e. Order the treatment plan or make a finding that no appropriate treatment plan can be developed under the circumstances.

Cases in which no appropriate treatment plan can be developed for either parent due to abandonment under C.R.S. §19-3-604(1)(a) or parental unfitness under C.R.S. §19-3-604(1)(b) require that a Permanency Planning hearing be set within 30 days of the finding. The Permanency Planning hearing will be vacated if a motion to terminate parental rights is filed.

- f. If removal has occurred or placement is continued, determine the appropriateness of the placement and whether the child's continuation in or return to the home would be contrary to the child's best interests (C. R. S. §19-1-115(6)(a))
- g. If removal has occurred or placement is continued, determine whether reasonable efforts have been made by BCDSS to prevent or eliminate the need for removal or determine that an emergency situation exists which requires immediate temporary removal and that it is reasonable for BCDSS not to make efforts to prevent removal due to the emergency situation (C.R.S. §19-1-115(6)(b)).
- h. If removal has occurred or placement is continued, determine whether reasonable efforts by BCDSS have been or will be made to reunify, the child and the family or determine that efforts to reunite the family have failed (C. R. S. §19-1-115(6)(c)).
- i. If removal has occurred or placement is continued, determine whether procedural safeguards with respect to parental rights have been applied in connection with the removal, a change in placement, and any determination affecting parental visitation (C.R.S. §19-1-115(6)(d)).

- j. Set the Permanency Planning Hearing within 90 days.
 - k. Set a Review hearing if requested by parties.
 - l. Set the next written court report date.
4. If removal of a child occurs after the Dispositional hearing, an "out of home" Dispositional hearing is to be held within 30 days of removal. At this hearing, an amended treatment plan will be ordered. Set the Permanency Planning Hearing within 90 days.

VI. Reviews

A. Purpose

To review the need for continued placement (if the child has been removed), progress on and modification of the treatment plan, and the continued appropriateness of the permanency goal. In all cases where the child is in an out-of-home placement at the time of the review, a Judicial determination of reasonable efforts on the part of BCDHHS to prevent out-of-home placement, to reunify the family and to place the child in a timely manner in accordance with the permanent plan must be made.

B. Type of Review

1. Review Hearing. Following the Dispositional hearing, the court will hold Review hearings as necessary or at the request of parties. The court has the discretion to hold reviews more frequently if interpretation of the facts and circumstances of the case merit it. Written court reports are not required for Review hearings unless requested by the court. The Court may choose to combine periodic reviews with a permanency review hearing. If the Court combines a periodic review hearing with a permanency review the court must make findings pursuant to C.R.S.§19-3-702(3.5). (C.R.S.§19-3-702(6.5).

Written notice of a Review hearing will be sent by the county attorney's office to any party who was not present when a Review hearing was set. Notification to foster parents will also be provided by the county attorney's office.

2. Written Review. Following Dispositional hearing, a written court report and review is due within 90 days in all cases. Subsequently, written reviews are due every 180 days until the court's jurisdiction is terminated or as otherwise ordered by the Court.

- a. A written court report must be prepared by the BCDHHS, filed with the court, and served on the parties and counsel prior to the due date. The report will include a brief social history (required for first written review only) and placement history, discuss the developments in the case since the last hearing or review, and address each of the actions set forth in section C below.

- b. The motion to approve recommendations should include a specific recommendation as to the date and type of the next written review or Review hearing. If a hearing is recommended, a request for setting will be included with the motion.

C. Critical Review Tasks

1. Some or all of the following actions will be taken at every Review hearing or for every written review:

- a. If removal has occurred or placement is continued, determine the appropriateness of the placement and whether the child's continuation in or return to the home would be contrary to the child's best interests (C.R.S. §19-1-115(6)(a))
- b. If removal has occurred or placement is continued, determine whether reasonable efforts have been made by BCDSS to prevent or eliminate the need for removal or determine that an emergency situation exists which requires immediate temporary removal and that it is reasonable for BCDSS not to make efforts to prevent removal due to the emergency situation (C.R.S. §19-1-115(6)(b))
- c. If removal has occurred or placement is continued, determine whether reasonable efforts by BCDHHS have been or will be made to reunify the child and the family or determine that efforts to reunite the family have failed (C.R.S. §19-1-115(6)(c))
- d. If removal has occurred or placement is continued, determine whether procedural safeguards with respect to parental rights have been applied in connection with the removal, a change in placement, and any determination affecting parental visitation (C.R.S. §19-1-115(6)(d); C.R.S. §19-3-702(3.5)(a)).
- e. If removal has occurred or placement is continued, whether reasonable efforts have been made to finalize the permanency plan in effect at the time of the permanency hearing (C.R.S. §19-3-702(3.5)(b)).
- f. Determine the continued appropriateness of the permanency goal.
- g. Determine whether the treatment plan or proposed services need to be modified in light of additional information or changed circumstances.
- h. Review progress on treatment plan goals.
- i. Review parental involvement and interaction with child.

- j. Set the next review.

VII. Permanency Planning Hearing

A. Purpose

To adopt a definitive permanent plan for a child in out-of-home placement and to take significant steps toward implementing the plan

B. Process

1. Timing. A Permanency Planning hearing will be held within 3 months of the Dispositional hearing. If reunification is the permanent goal and the child has not been returned within 6 months of the hearing, a second Permanency Planning hearing will be held at this time. (See section V. B. 4. for information on non-emergent cases where removal occurs after disposition.)
2. Written notice of the Permanency Planning hearing will include a paragraph clarifying the proposed permanent plan for the child. A written permanent plan/court report and any proposed amendments to the treatment plan must be filed by BCDHHS and served on the parties and counsel at least one week prior to the Permanency Planning hearing.
3. The Permanency Planning hearing is more than just another review. The purpose of the Permanency Planning hearing is to make a definitive, long-term decision regarding the permanent placement of the child. Accordingly, the parties should be prepared to take whatever steps are necessary to implement a permanent plan for the child at the Permanency Planning hearing. Possible permanency planning outcomes include, but are not limited to:
 - a. Reunification at or before the Permanency Planning hearing. If reunification occurs as of the Permanency Planning hearing, the treatment plan will be amended and the court jurisdiction will be continued for case monitoring as needed. A permanency review date will be scheduled.
 - b. Reunification within 6 months of the Permanency Planning hearing. The court may find that there has been significant progress on the treatment plan and that it is probable that the child will be returned home within 6 months. In that case, the court will set the date on which reunification will occur and adopt amendments to the treatment plan to ease the transition. A Permanency Planning Review hearing will be set no later than 15 days prior to the projected reunification date. If the child returns home prior to the projected reunification date, the county attorney's office will submit a motion notifying the court, requesting a change of legal custody, and vacating the Permanency Planning Review hearing. If the child is not returned home by the Permanency Planning Review hearing, the court will determine if a revised reunification date is required, if a motion for termination of parental rights should be filed, or if another appropriate permanent plan should be implemented.

- c. Reunification more than 6 months after the Permanency Planning hearing. If the court finds, either at the Permanency Planning hearing or at the Permanency Planning Review hearing, that there is not a substantial probability of reunification within 6 months, the court must make specific findings concerning the placement goal of the child, as required by statute (C.R.S. §19-3-702(4).)
 - d. Termination of Parental Rights to Enable Adoption or Other Permanent Plan. The motion to terminate parental rights may be filed at the Permanency Planning hearing. The Court will advise the parties present, set the trial date, appoint counsel, and enter a case management order if necessary. The Termination trial shall be held within 90 days of the filing of the motion to terminate parental rights.
 - e. Relinquishment to Enable Adoption or Other Permanent Plan. Relinquishment counseling may be completed prior to the Permanency Planning hearing. The relinquishment petition will be filed and heard by a judge as soon as possible.
 - f. Permanent Custody. The permanent custody motion may be filed at the Permanency Planning hearing. If uncontested, the motion may be heard at that time. Otherwise, the matter should be set for hearing as soon as practical. If there is an existing domestic relations case, it will need to be certified to the D&N case. If there is no open domestic relations case and the motion is filed and heard in the D&N case, the party who obtains custody will be ordered to file a certified copy of the order with the district court to open a domestic relations case.
 - g. Guardianship. The guardianship motion can be filed as a probate case at the Permanency Planning hearing. If uncontested, the motion may be heard at that time; otherwise, the matter should be set for hearing as soon as practical.
 - h. Independent Living. The child should be in a placement with an emancipation component or receiving services to develop independent living skills. Reviews should be conducted every 180 days unless the circumstances warrant more frequent reviews.
 - i. Long Term Foster Care. In order to approve this plan for Expedited Permanency Planning cases, the court must be provided with documentation of a compelling reason for establishing a goal other than reunification, adoption of legal guardianship. (C.R.S. §19-3-702 (4).
4. Participation by Children in the Court Process. C.R.S. §19-3-702(3.7) requires that the court consult with the child in an age appropriate manner regarding the child's permanency plan.

- a. In response to the statutory requirement, and in light of the Section 8.3C.2c Title IV-E publication (see also Social Security Act – section 475(5)(C)(ii)), the following procedures for permanency hearings are acceptable:
 - b. GAL's and caseworkers will work together to ensure that the children know they have a right to be heard by the Court. They will be told that they have several options, including direct court attendance, letter, fax or email to the court, or meeting separately with the Court on the record.
 - c. The presumption will be that the child will be allowed to come to court. This presumption can be rebutted by the caseworker or the GAL and may include such reasons as young age of the child, mental state of the child, developmental disability of the child, or preference on the child's part to participate in another way.
 - d. The GAL and the caseworker will work out transportation issues. Foster parents and CASA's should be a strong resource for transportation.
 - e. If a child does not participate in a permanency planning hearing, the Court will inquire as to whether the child was consulted and what his/her response was. An oral report by the GAL addressing the child's position will be sufficient.
 - f. Even though there are frequent permanency hearings, the statute requires that children be consulted for each hearing. Of course, frequency of hearings may be one reason that the GAL and caseworker decide that a child should not come to court, but participate another way instead.
 - g. If the GAL and caseworker disagree on the issue of whether a child should attend a hearing, the GAL will make the final decision.
 - h. In order to address the concerns about children's fear and anxiety, every effort will be made to make this an empowering and pleasant experience for children. The Court will assure the children that the decision about permanency is not their decision, but the Court's.
 - i. Depending on the child, any party may ask the child to step out should the topic be one that is not appropriate for the child to hear.
5. If removal has occurred or placement is continued, the court will determine:
- a. Whether procedural safeguards to preserve parental rights have been applied in connection with any change in the child's placement or any determination affecting parental visitation of the child.(C.R.S.§19-3-702(3.5)(a)).
 - b. Whether reasonable efforts have been made to finalize the permanency plan that is in effect at the time of the permanency hearing (C.R.S. §19-3-702(3.5)(b)).
 - c. If a child resides in placement out-of-state, whether the out-of-state placement continues to be appropriate and in the best interests of the child. (C.R.S. §19-3-702(3.5)(c))
 - d. Whether reasonable efforts by BCDHHS have been or will be made to reunify the child and the family or determine that efforts to reunite the family have failed (C.R.S. §19-3-702(3)).

- e. If the child is sixteen years of age or older, if the permanency plan includes independent living services. (C.R.S. §19-3-702(3.5)(d).
 - f. The Court may make additional findings and orders to enable the child to obtain a permanent home. (C.R.S. §19-3-702(5).
 - g. If the child has been in placement for over 12 months, the court will have 6 month reviews at which the court will apply clear and convincing standard to review the child's placement. (C.R.S. §19-3-703).
- 6. The court will set the next hearing or written review date if necessary.
 - 7. The Court will make an ICWA inquiry.

VIII. Termination of the Parental-Child Legal Relationship

A. Purpose

To obtain a Judicial determination as to whether there are statutory grounds to sever the parent/child legal relationship and whether termination is in the best interest of the child.

B. Process

- 1. The motion to terminate parental rights may be filed at or before the Permanency Planning hearing. The Termination trial shall be held within 90 days of the filing of the motion.
- 2. A Pre-Trial Order will be issued to set procedural deadlines in the case.
- 3. Continuances will be granted only upon a finding that manifest injustice will occur in the absence of a continuance.
- 4. If the child is to remain in placement following the Termination trial, the court will determine whether reasonable efforts have been made to finalize the permanency plan.
- 5. The court will set the Post-Termination Review hearing for the purpose of reviewing the post-termination placement plan. This hearing will be set no later than 90 days from the Termination trial.

IX. Post-Termination Review Hearing

A. Purpose

To review and amend, if necessary, the post-termination permanent placement plan that will best serve the interests and needs of the child.

B. Process

1. Timing. The Post -Termination Review hearing will be held within 90 days of the initial order of termination of parental rights. A written post-termination plan is to be filed by BCDHHS and the GAL and served on the parties and counsel at least one week prior to the hearing. Subsequent reviews will be set based on the facts and circumstances of the case and the schedule outlined in section VI.
2. The court will determine if the plan is appropriate. The plan will be for adoption, permanent custody, emancipation, independent living, or another goal that meets the needs of the child.
3. If the plan is for the child to remain in placement following the hearing, the court will determine whether reasonable efforts have been made to finalize the permanency plan.
4. The next hearing or written review date will be set if necessary.

X. Adoption Hearing

A. Purpose

When appropriate, the court has the authority to proceed with adoption when all parental rights are terminated or relinquishment occurs. The Adoption hearing permanently places a child with adoptive parents who are assuming all parental rights and responsibilities.

B. Process

1. Timing. The Adoption hearing shall be held as soon as possible after the child becomes free for adoption (if no appeal, the child is free 21 days after entry of written decree of TPR; if an appeal is filed, the child is not free until a final mandate is issued by the Appellate Court, in cases of relinquishment, the child is not free until 90 days after an uncontested relinquishment order.) Where appropriate, this hearing can be combined with the Post-Termination Review hearing.
2. When hearing an adoption petition for a child in foster care, the court will determine that:
 - a. Either parental rights have been voluntarily relinquished or that parental rights have been terminated and the appeal process is over.
 - b. All required consents to adoption are provided.
 - c. Home studies and/or court-ordered reports are properly reviewed.
 - d. Adoptive parents understand that adoption is permanent and irreversible.
 - e. In cases involving children with special needs, parents have been fully advised of

all the necessary services and special circumstances of the child, understand the adequacy of adoption subsidies, and are aware of services and assistance that will be available after the adoption.

f. All issues of conflict are resolved.

3. In most cases, the court will issue the adoption decree at the hearing.

XI. Court Approved Permanent Home

The goal of this plan is to facilitate the achievement of a permanent home within 12 months for every child in our district. In order to document progress toward this goal, the county attorney's office is required to file a motion for a judicial finding of a permanent home within 12 months of out-of-home placement. The motion will include the date that each child in a particular case entered foster care and the date that he or she achieved his or her permanent home, a description of the permanent placement, and the number of placements the child was in prior to achieving permanent home status. If the child is not in a permanent home at this time, the motion will outline the reasons for permanency delay. When the county attorney's office files a motion for termination of court's jurisdiction, the motion will reiterate this permanent home information along with any changes.

XII. Continuances

With the expedited timelines in place, it is the policy of the Twentieth Judicial District that continuances will be granted in emergency situations only or when the best interest of the child will be served by the granting of a continuance. If the continued case involves children under six at the time the petition was filed, the court is required to make the findings set forth in C.R.S. 19-3-104. The hearing shall be rescheduled within 30 days.

XIII. Conclusion

The Twentieth Judicial District Plan for Handling Dependency and Neglect Cases is to be followed by all parties involved in a D&N case in the Twentieth Judicial District of Colorado. Not all the time lines outlined in this plan are statutorily required, however, they are benchmarks established for this district and are expected to be successfully attained. The plan's effectiveness will be formally evaluated annually based on the goals outlined in section 1, Introduction. Any comments or suggestions should be addressed, in writing, to:

Magistrate Carolyn McLean
Twentieth Judicial District, Division O
P.O. Box 4249 Boulder CO 80306



Hon. Roxanne Bailin, Chief Judge