



PRESIDING JUVENILE JUDGE ORDER 2015-2
STATE OF COLORADO
FIRST JUDICIAL DISTRICT

**ORDER ESTABLISHING A PROTOCOL FOR PHOM HEARINGS PURSUANT
TO C.R.S. §19-3-703**

WHEREAS C.R.S Section 19-3-703(1) provides “if a child is under six years of age at the time a petition is filed in accordance with section 19-3-501 (2), the child shall be placed in a permanent home no later than twelve months after the original placement out of the home unless the court determines that a placement in a permanent home is not in the best interests of the child at that time.”

WHEREAS a child’s placement in a permanent home is a significant milestone currently not traced in ICON/Eclipse;

WHEREAS to address this apparent gap and the fact that the practices for making the statutory findings pursuant to C.R.S.19-3-703 are inconsistent throughout the state, the Executive Committee of the Colorado Court Improvement Program (CIP) appointed the Permanent Home (PHOM) Workgroup to examine and issue recommendations regarding practices and procedures for determining when children have been placed in a permanent home;

WHEREAS Jefferson County is identified as a pilot county for this project and has participated in the PHOM Workgroup, it is necessary to adopt an interim protocol for conducting both a PHOM staffing and a PHOM Hearing; and

WHEREAS this protocol is identified as an interim protocol in anticipation that experience in holding the PHOM staffings and the PHOM hearings will result in modifications to this interim protocol.

IT IS HEREBY ORDERED THAT:

All dependency and neglect cases subject to the Expedited Permanency Planning requirements in C.R.S. §19-1-123 , where a child has been placed out of the home at any point during the pendency of that case, shall be governed by this interim protocol.

This interim protocol will apply to all EPP cases filed on or after October 1, 2014. Older cases otherwise falling within the qualifications for the PHOM protocol, may be considered subject to this protocol at the request of any party .

PHOM PROCESS

- The initial Permanency Hearing conducted pursuant to C.R.S. 19-3-702 is generally held about five (5) months from the date a Petition in Dependency and Neglect is filed.
- Typically, the hearing following the initial permanency hearing is either a Review or Permanency Hearing and falls at about the eight (8) month mark of the case. At this hearing the Court shall set a PHOM Hearing. The PHOM hearing shall be set out about 90 days and may be combined with a permanency or review hearing. The Permanent Home Hearing is anticipated to occur at approximately the 11-month point in the case.
- At the time the PHOM hearing is scheduled, the Court shall also set a PHOM staffing which shall occur approximately 30-45 days prior to the PHOM Hearing.
- All persons entitled to receive notice of a Permanency Hearing shall receive notice of the PHOM Hearing. Notice of the PHOM Hearing may be combined with the notice of the Permanency Hearing and shall be sent in the same manner as the permanency planning notice no less than 30 days prior to the PHOM hearing.
- During the interim period in which this Order is in effect, permanent home findings may be related to either a specific relative or to a level of care/permanency goal. Those decisions shall be made on a case by case basis.

PHOM STAFFING

- The PHOM staffing shall be facilitated and shall be structured to assist the parties in achieving the goal of identifying a permanent home.
- The PHOM staffing shall be attended by all parties and counsel, subject to the exception noted in the section below.
- The JCDCYF caseworker shall bring a completed genogram, the placement history of the child/ren, and any diligent searches for relatives conducted by the Division within the past six months to the staffing.
- During the staffing, the parents shall update the relative affidavit.
- All parties shall be given notice and opportunity to attend the PHOM staffing including the ACA, CW, GAL, CASA, RP counsel and parents.
- The PHOM staffing shall address the following:
 - Whether the child is in a permanent home;

- If the child is not in a permanent home, the reasonable efforts to find the child a permanent home shall be specifically identified;
- What are the mental and/or physical needs or conditions of the child making it improbable that the child would be successful in that placement; and
- If such needs or conditions are identified, what services are being given the child to remedy the situation.
- The Petitioner, GAL, and CASA shall present their recommendations regarding a permanent home.
- The Respondent Parent and counsel shall have the opportunity to ask questions about the positions presented and to offer alternative positions and alternative and potential placements.
- Following the presentation of positions and the conclusion of discussions, the parties shall decide whether they are in agreement regarding a PHOM finding in preparation for the PHOM hearing. If all parties are in agreement with a PHOM finding, the GAL shall prepare and file a stipulation signed by all parties with a proposed Order.
- Contested PHOM hearings shall be set on notice within 72 hours of the PHOM Staffing.

WAIVER OF NOTICE AND STIPULATED AGREEMENT TO PERMANENT HOME FINDING

- Recognizing that in a small number of cases where there has been an obviously short period of out-of-home placement and the children have been returned home, counsel may agree and stipulate to a permanent home finding to be prepared and filed by the GAL and not hold a PHOM staffing. The PHOM hearing shall still be set and held.

PERMANENCY PLANNING/PHOM HEARING

- The County Attorney shall address the permanency plan and recommendations contained within the Family Services Plan. All counsel and parties have the opportunity to respond and state positions.
- The GAL shall address the PHOM portion of the hearing, including summarizing any agreements reached at the PHOM staffing and making recommendations regarding an appropriate PHOM finding.
- All other counsel and parties have the opportunity to respond and state positions.
- The Court shall find by a preponderance of the evidence that the child is in a permanent home; **or**
- The Court shall find by clear and convincing evidence that placement in a permanent home is not in the child's best interest but reasonable efforts were made to find one, and such a home is not currently available; **or**
- The child's mental or physical needs or conditions deem it improbable that such child would have a successful permanent placement.
- At the PHOM Hearing the Division and GAL shall provide information to the Court about the specific services that are being provided to the child to remedy the child's problems.
- During a contested PHOM Hearing, the burden of proof shall be upon the GAL.

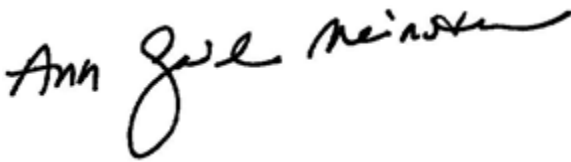
POST PHOM FINDING

- Following a finding that a delay in placement is in the child/ren's best interest, the Caseworker and GAL shall submit a written report identifying the services provided to the child to address the issues causing the delay.
- This PHOM interim protocol shall apply to each child on an EPP D&N Petition who is under the age of six (6) at the time the Petition is filed. For purposes of this protocol, all children on a D&N case subject to the EPP requirements shall be considered for purposes of the PHOM staffing and hearing, however, children on the Petition over the age of six at the time of filing may be excluded for data purposes.
- Each hearing following the PHOM hearing shall continue to address the status of the child in relation to placement in a permanent home.

DATA ENTRY

- SuperUser/Data Expert within the Judicial Department shall run the Removals Report.
- An identified person from JCDCYF shall run data from Trails.
- PHOM findings will be entered into the ICON/Eclipse data system when both a PHOM finding or a PHOM delayed finding is made.

The Order is effective July 1, 2015.



Ann Gail Meinster
District Court Judge