

CHAPTER 16
**12-MONTH PERMANENT PLACEMENT DETERMINATION HEARING
(ADMIT/DENY HEARING ON PERMANENCY PETITION)**
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16.01.	<p>TIMING</p> <p>A. GENERALLY. The court shall commence proceedings to determine the permanent status of the child not later than 12 months after the child is placed in foster care or in the home of a noncustodial parent. The hearing that commences these proceedings is the Admit/Deny Hearing on the permanency petition, which is required to be filed by the county by month 11 unless the county intends to recommend reunification with the parent from whom the child was removed.</p> <p>B. EXCEPTION – TRIAL HOME VISIT. If the child is on a trial home visit at the time the court is required to commence permanency proceedings, the court may continue for up to six months the time to commence the proceedings.</p> <p>C. RE-COMMENCEMENT AFTER TRIAL HOME VISIT. If at the conclusion of the permanency proceedings the child is ordered returned to the parent’s home as a trial home visit, and the child is subsequently returned to foster care, the court shall re-commence proceedings to determine an appropriate permanent order for the child not later than thirty (30) days after the child returns to foster care.</p>	<ul style="list-style-type: none"> • Minn. Stat. § 260C.201, subd. 11(a) (admit/deny by month 12) • Minn. Stat. § 260C.201 11(b) (permanency petition by month 11) • RJPP 42.01, subd. 5(b) • RJPP 42.04(b) • RJPP 42.01, subd. 4(c) • RJPP 42.01, subd. 4(c)
16.02.	<p>CALCULATING TIME TO 12-MONTH PERMANENT PLACEMENT DETERMINATION HEARING</p> <p>A. CALCULATION. For purposes of calculating time in out-of-home placement, the child shall be considered placed out of the care of the parent at the earlier of: (a) the date the child was ordered into foster care or into the care of a noncustodial parent; or (b) sixty (60) days after the date on which the child has been voluntarily placed in foster care as a result of a voluntary placement agreement between the parents and the responsible social services agency.</p> <p>B. ACCUMULATION OF TIME IN OUT-OF-HOME PLACEMENT OVER LAST FIVE YEAR. If a child has been placed in foster care within the previous five years under one or more previous petitions, the lengths of all prior time periods during which the child was placed in foster care within the previous five years are accumulated. If, at the time of filing of the current petition, the child has been in foster care for twelve (12) months or more, the court, if it is in the best interests of the child and for compelling reasons, may extend the total time the child may continue out of the home under the current petition up to an additional six (6) months before making a permanency determination (i.e., a total of 18 months rather than 12 months).</p> <p>C. TRIAL HOME VISIT. Time spent with on a trial home visit with the parent from whom the child was removed (i.e., custodial parent), and time spent under the protective supervision of the social counts towards the 12-month permanency requirement. A trial</p>	<ul style="list-style-type: none"> • Minn. Stat. § 260C.201, subd. 11(a) • RJPP 42.01, subd. 3 • Minn. Stat. § 260C.201, subd. 11(a) • RJPP 42.01, subd. 4(b) • Minn. Stat. § 260C.201, subd. 11(a)

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	<p>16.02 Calculating Time to 12-Month Permanent Placement Determination Hearing (continued)</p> <p>home visit can be ordered only with the custodial parent, not the noncustodial parent.</p> <p>D. PROTECTIVE SUPERVISION. Time spent by a child under the protective supervision of the social services agency in the home of the parent from whom the child was removed does not count toward the 12-month permanency requirement. Time spent by a child under the protective supervision of the social services agency in the home of a noncustodial parent counts toward the 12-month permanency requirement.</p> <p>E. CASES WHERE REASONABLE EFFORTS FOR REUNIFICATION ARE NOT REQUIRED. When the court finds that the petition states a prima facie case that one or more of the five circumstances under Minnesota Statutes § 260.012 and Rule 30.09, subd. 3, exist where reasonable efforts for reunification are not required, the court shall order that an admit/deny hearing be conducted within thirty (30) days and a trial be conducted within ninety (90) days of its prima facie finding. Unless a permanency or termination of parental rights petition has already been filed, the county attorney requesting the prima facie determination shall file a permanency or termination of parental rights petition that permits the completion of service by the court at least ten (10) days prior to the admit/deny hearing.</p>	<ul style="list-style-type: none"> • RJPP 42.01, subd. 4(c) • Minn. Stat. § 260C.201, subd. 11(a) • RJPP 42.01, subd. 4 • RJPP 42.01, subd. 6
16.03.	<p>PURPOSE OF HEARING</p> <p>A. CHILD IN FOSTER CARE OR HOME OF NONCUSTODIAL PARENT. The purpose of the hearing is to determine the child’s permanent placement status by reviewing:</p> <ol style="list-style-type: none"> 1. The parent’s progress on the protective services case plan or out-of-home placement plan; 2. The services provided by the responsible social services agency, and 3. Whether or not the conditions that led to the child’s placement in foster care or in the home of a noncustodial parent have been corrected so that the child can return to the care of the parent or custodian from whom the child was removed. <p>The court shall determine whether the child shall be returned home or, if not, order permanent placement of the child away from the care of the parent(s) consistent with the child’s best interests and the pleadings and proof presented to the court.</p> <p>B. MATTERS WHERE REASONABLE EFFORTS FOR REUNIFICATION ARE NOT REQUIRED. The purpose of the hearing is to ensure a timely decision by the court that either there is:</p>	<ul style="list-style-type: none"> • RJPP 42.02, subd. 1(a) • Minn. Stat. § 260C.201, subd. 11(a) • RJPP 42.02, subd. 3

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	<p>16.03 Purpose of Hearing (continued)</p> <ol style="list-style-type: none"> 1. a sufficient evidentiary basis for an order for termination of parental rights or permanent placement of the child away from the parent and for finding that such an order is in the child's best interests; or 2. an insufficient evidentiary basis for such order or that the order is not in the best interests of the child. 	
16.04.	<p>SERVICE OF PERMANENCY PETITION Unless the responsible social services agency recommends return of the child to the custodial parent or files a motion pursuant to Rule 42.14, the responsible social services agency must file a permanency petition not later than 30 days prior to the date by which the admit/deny hearing must be commenced (i.e., by month 11).</p>	<ul style="list-style-type: none"> • RJPP 42.04(a) • Minn. Stat. § 260C.201, subd. 11(b)
16.05.	<p>IDENTIFICATION OF FILE NAME, FILE NUMBER, AND PERSONS PRESENT At the commencement of the hearing, the court shall on the record:</p> <ol style="list-style-type: none"> 1. State the case name and file number. 2. Ask all parties, participants, and attorneys present to identify themselves for the record. 3. Determine whether it is in the child's best interests to be present or to be excluded from the hearing. 4. Inquire whether there is anyone in the audience who wishes to be identified because of an interest regarding the child or family. 5. State that this is an Admit/Deny Hearing and that the purpose of the hearing is to determine whether the parent or legal custodian admits or denies the statutory grounds and factual allegations set forth in the petition. 	<p>See RJPP 34.03</p> <p>Minn. Stat. § 260C.163, subd. 7</p> <p>RJPP 34.01</p>
16.06.	<p>INITIAL PROCEDURES At the commencement of the hearing the court shall on the record:</p> <ol style="list-style-type: none"> 1. Verify the name, race, age, date of birth, and current address of the child who is the subject of the matter, unless stating the address would endanger the child or seriously risk disruption of the current placement; 2. Inquire whether the child is an Indian child and, if so, determine whether the Indian child's tribe, parent, and Indian custodian have been notified; 3. Determine whether all parties are present and identify those present for the record; 4. Advise any child and the child's parent or legal custodian who appears in court and is not represented by counsel of the right to representation pursuant to RJPP 25 (see chapter 24); 5. Determine whether notice requirements have been met and, if not, whether the affected person waives notice; 6. If the child who is a party or the child's parent or legal custodian appears without counsel, explain basic trial rights; 7. If the court knows or has reason to know that the child is an Indian child, determine whether notice has been sent pursuant to Rule 32.06; 25 U.S.C. § 1912(a); and Minnesota Statutes § 260.761, subd. 3; 	<ul style="list-style-type: none"> • RJPP 34.03, subd. 1

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	<p>16.06 Initial Procedures (continued)</p> <p>8. if the district court finds from review of the petition or other information that an Indian child is a ward of tribal court, pursuant to Rule 48.02, subd. 1, adjourn the hearing to consult with the tribal court regarding the safe and expeditious return of the child to the jurisdiction of the tribe and dismiss the juvenile protection matter;</p> <p>9. Determine whether the child and the child’s parent or legal custodian understand the statutory grounds and the factual allegations set forth in the petition and, if not, provide an explanation; and</p> <p>10. Explain the purpose of the hearing and the possible permanent transfer of custody of the child from the parent or legal custodian to another and the 12-month permanency requirements of Minn. Stat. § 260C.201, subd. 11.</p>	<ul style="list-style-type: none"> • RJPP 34.03, subd. 1
16.07.	<p>INITIAL DETERMINATIONS</p> <p>A. Prima Facie Determination – Content of Petition. After completing the initial procedures in section 16.06, the court shall determine whether the petition states a prima facie case in support of one or more statutory grounds set forth in the petition to terminate parental rights. The court shall dismiss the petition if it finds that the petition fails to establish a prima facie showing that a juvenile protection matter exists and that the child is the subject of that matter.</p> <p>1. Motions Regarding Sufficiency of Petition. The court shall hear any motions, made pursuant to Rule 15, addressed to the sufficiency of the petition or jurisdiction of the court without requiring any person to admit or deny the statutory grounds set forth in the petition prior to making a finding on the motion.</p> <p>2. Prima Facie Case Exists. If the court determines that the petition states a prima facie case in support of the relief requested, the court shall proceed to determine whether the petition states a prima facie case regarding reasonable/active efforts (see section “B” below).</p> <p>3. Prima Facie Case Does Not Exist. If the court determines that the petition fails to state a prima facie case in support of the relief requested, the court shall:</p> <p>(a) return the child to the care of the parent or legal custodian; or</p> <p>(b) give the petitioner ten (10) days to file an amended petition or supplementary information if the petitioner represents there are additional facts which, if presented to the court, would establish a prima facie case in support of termination of parental rights; or</p> <p>(c) give the petitioner ten (10) days to file a child in need of protection or services petition; or</p> <p>(d) dismiss the petition.</p>	<ul style="list-style-type: none"> • RJPP 34.03, subd. 3(a), 4(a) • RJPP 34.03, subd. 5 • RJPP 34.03, subd. 3(c), 4(c)

	PROCEDURE	AUTHORITY
	<p>16.07 Initial Determinations (continued)</p> <p>B. Prima Facie Determination – Reasonable/Active Efforts. When the petition alleges that reasonable efforts, or active efforts in the case of an Indian child, have been made to reunify the child with the parent or legal custodian, the court shall enter a separate finding regarding whether the factual allegations contained in the petition state a prima facie case that the agency has provided reasonable efforts, or active efforts in the case of an Indian child, to reunify the child and the parent or legal custodian. In the alternative, the court may enter a finding that reasonable efforts to reunify the child and the parent or legal custodian were not required under Minn. Stat. § 260.012 (see Chapter 29 – “bypass” cases).</p> <ol style="list-style-type: none"> 1. Prima Facie Case Exists. If the court determines that the petition states a prima facie case, the court shall proceed to take admissions (see section 16.08). 2. Prima Facie Case Does Not Exist. If the court determines that the petition fails to state a prima facie case, the court shall: <ol style="list-style-type: none"> (a) return the child to the care of the parent or legal custodian; or (b) give the petitioner ten (10) days to file an amended petition or supplementary information if the petitioner represents there are additional facts which, if presented to the court, would establish a prima facie case in support of termination of parental rights; or (c) give the petitioner ten (10) days to file a child in need of protection or services petition; or (d) dismiss the petition. 	<ul style="list-style-type: none"> • RJPP 34.03, subd. 3(b), 4(b) • RJPP 34.03, subd. 3(b), 4(b) • RJPP 34.03, subd. 3(c), 4(c)
16.08.	<p>PERSONS REQUIRED TO ENTER ADMISSION OR DENIAL</p> <p>A. GENERALLY. Unless the child’s parent or legal custodian is the petitioner, a parent or legal custodian who is a party shall admit or deny the statutory grounds set forth in the petition or remain silent. If the parent or legal custodian denies the statutory grounds set forth in the petition or remains silent, or if the court refuses to accept an admission, the court shall enter a denial of the petition on the record.</p> <p>B. TERMINATION OF PARENTAL RIGHTS. In a termination of parental rights matter, only the child’s parent or legal custodian are required to admit or deny the petition.</p> <p>PERMANENT PLACEMENT MATTERS. In a permanent placement matter, only the legal custodian of the child who is not the petitioner is required to admit or deny the petition. A party who is not required to admit or deny the petition may object to the entry of the proposed permanent placement order if that party has filed a petition pursuant to Rule 33. When there is a petition for transfer of permanent legal and physical custody to a relative who is not represented by counsel, the court may not enter an order</p>	<p>RJPP 35.01, subd. 1(a)</p> <p>RJPP 35.01, subd. 1(b)</p> <p>RJPP 35.01, subd. 1(c)</p>

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	<p>16.08 Persons required to enter admission or denial (continued)</p> <p>granting the transfer of custody unless there is testimony from the proposed custodian establishing that the proposed custodian understands:</p> <p>(a) the legal consequences of a transfer of permanent legal and physical custody;</p> <p>(b) the nature and amount of financial support and services that will be available to help care for the child;</p> <p>(c) how the custody order can be modified; and</p> <p>(d) any other permanent placement options available for the subject child.</p>	RJPP 35.01, subd. 1(c)
16.09.	<p>ADMISSION OR DENIAL – NEXT HEARING</p> <p>A. ADMISSION. If the parent or legal custodian admits the petition, the court shall proceed to accept the admission(s) (see chapter 9) and then determine whether to grant the relief requested or some other relief.</p> <p>B. DENIAL. If the parent or legal custodian denies the petition, the court shall schedule a:</p> <p>(a) Pretrial hearing to commence at least 10 days prior to the date for commencement of the trial (see Chapter 10), and</p> <p>(b) Trial to commence within 60 days of the admit/deny hearing (see Chapter 17).</p>	<ul style="list-style-type: none"> • RJPP 34.03, subd. 1 • RJPP 34.03, subd. 4(a) • RJPP 34.03, subd. 1
16.10.	<p>NOTICE OF SUBSEQUENT HEARINGS</p> <p>The court administrator shall serve upon each party, participant, and attorney a notice of the date, time, and location of the next hearing. The notice shall be:</p> <ol style="list-style-type: none"> 1. Delivered at the close of the hearing (if written notice is delivered at the end of the hearing, later written notice is not required), 2. Mailed at least five (5) days before the date of the next hearing, or 3. Mailed ten (10) days before the date of the hearing if mailed to an address outside the state. <p>Comment: The Notice of Subsequent Hearing form located on CourtNet complies with the above content requirements: http://courtnet.courts.state.mn.us/courtnetforms/Default.aspx?category=43#category7</p>	RJPP 32.04