

CHAPTER 28
CASE PLANS AND OUT OF HOME PLACEMENT PLANS
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	PROCEDURE	AUTHORITY
28.01	<p>CASE PLAN DEFINED</p> <p>"Case plan" means any plan for the delivery of services to a child and parent or legal custodian, or, when reunification is not required, the child alone, that is developed according to the requirements of Minn. Stat. § 260C.212, subd. 1. An "out-of-home placement plan" is required for children ordered into placement by the Court. A "protective services case plan" is required for a child who remains at home under the protective supervision of the social services agency. RJPP 37 specifies the requirements for both types of case plans.</p> <p><i>Comment: A case plan identifies the safety issues and risks for the child, the task the parents must complete to correct the safety issues, the behavioral change the parents must demonstrate and sustain, and the efforts the agency must provide to the parents to assist them to accomplish the goals. The plan should identify what needs to be done, who needs to do it, and when the action needs to occur.</i></p>	Minn. Stat. § 260C.007, subd. 3
28.02	<p>CASE PLANS REQUIRED</p> <p>When the responsible social services agency is the petitioner, the agency must file with the court and provide to the parties and foster parent a case plan or out of home placement plan for the child and the parents or legal custodians, as appropriate.</p> <p><i>Comment: Although a case plan is required in every case, the absence of a plan does not warrant reversal of a CHIPS or neglect adjudication when case-planning efforts have been an ongoing concern of the county, the parent's lack of cooperation is responsible for the county's failure to construct a plan, and the evidence clearly shows that the parent would not be aided by a written placement plan.</i></p>	RJPP 37.01 In re Welfare of R.M.M. III, 316 N.W.2d 538, 542 (Minn. 1982) (upholding termination of parental rights notwithstanding county's failure to prepare placement plan).
28.03	<p>TYPES OF CASE PLANS</p> <p>A. OUT-OF-HOME PLACEMENT PLAN. The most common case plan filed with the court is an Out-of-Home Placement Plan for children in foster care. See section 27.05 below for details.</p> <p>B. EMOTIONALLY DISTURBED CHILD CASE PLAN. For cases where the child is emotionally disturbed. See section 27.12 below for details.</p> <p>C. DEVELOPMENTALLY DISABLED CHILD CASE PLAN. For cases where the child is developmentally disabled or has a related condition. See section 27.12 below for details.</p>	<ul style="list-style-type: none"> • Minn. Stat. § 260C.212, subd. 1 • RJPP 37.02 • Minn. Stat. § 245.4871, subds. 19, 21 • Minn. Stat. § 245.492, subd. 16 • RJPP 37.05, subd. 2 • Minn. Stat. § 256B.092 • RJPP 37.03, subd. 2 • RJPP 37.05

	PROCEDURE	AUTHORITY
	<p>28.03 – Types of Case Plans</p> <p>D. PROTECTIVE SERVICES CASE PLAN. For cases where the child remains in the care of the parent or legal custodian under the protective supervision of the responsible social services agency and is at substantial risk of child maltreatment. See sections 27.11 and 27.13 below for details.</p>	<ul style="list-style-type: none"> • Minn. Stat. § 626.556, subds. 10, 10(e) • RJPP 37.04 • RJPP 37.06
28.04	<p>RESPONSIBILITY FOR DEVELOPING CASE PLAN</p> <p>A. CHIPS Petitions Filed by Agency. When the responsible social services agency is the petitioner, the agency is responsible for developing the case plan with appropriate family members and other service providers.</p> <p>B. PRIVATE CHIPS PETITIONS. When the agency is not the petitioner, but under RJPP 24.01 is joined as a party as a result of the filing of a private Child In Need of Protection or Services (CHIPS) petition¹, the court must determine whether there is jurisdiction over the agency to order the development of a case plan or whether there is a statutory provision that would require such development. A case plan may be required of the agency when a private CHIPS petition is filed if:</p> <ol style="list-style-type: none"> 1. The agency is joined as a party under RJPP 24.01 and given custody of or placement responsibility for the child; 2. The court determines that the child is at risk of out-of-home placement, in which case the court has authority to ensure reasonable or active efforts are made to prevent placement under Minn. Stat. § 260.012; or 3. Absent other statutory authority, the court may first have to adjudicate the child as in need of protection or services (see Chapter 12) before having authority to order the agency to develop a case plan and provide services. 	<ul style="list-style-type: none"> • RJPP 37.01 • Minn. Stat. § 260C.007, subd. 3 • RJPP 24.01 (authorizes joinder of persons and agency) • RJPP 22.01(c) (agency is a participant when it is not the petitioner)
	OUT-OF-HOME PLACEMENT PLAN	
28.05	<p>TIMING OF OUT-OF-HOME PLACEMENT PLANS</p> <p>A. EMERGENCY REMOVAL OF CHILD. When a child ordered into out-of-home placement, an Out-of-Home Placement Plan must be filed with the court and provided to the parties and foster parents by the responsible social services agency within thirty (30) days of the court order placing the child in foster care.</p> <p><i>Comment: The county's delay in preparing an out-of-home placement plan is not unduly prejudicial when the delay is partly caused by the parent's lack of cooperation and prior court orders adequately inform the parent of what needs to be done before the child may return home. In re Welfare of J.J.L.B., 394 N.W.2d 858, 863 (Minn. App. 1986) (upholding termination of parental rights despite two-year delay in providing parents with placement plan), rev. denied (Minn. Dec. 17, 1986). In Re Welfare of Copus, 356 N.W.2d 363, 366-67 (Minn. Ct. App. 1984).</i></p>	<ul style="list-style-type: none"> • RJPP 37.02, subd. 2 • Minn. Stat. § 260C.178, subd. 7

¹ A "private CHIPS petition" is one filed by someone other than the county attorney. Private CHIPS petitions are authorized under Minn. Stat. § 260C.141, subd. 1, and RJPP 33.02, subd. 2.

	PROCEDURE	AUTHORITY
	<p>28.05 Timing of Out of Home Placement Plans (continued)</p> <p>B. VOLUNTARY PLACEMENT – CHILD IN PLACEMENT DUE SOLELY TO DISABILITY. An out-of-home placement plan for a child in voluntary placement due solely to the child’s emotional or developmental disability (see definitions under Chapter 3.18 and 3.23) shall be filed with the report or petition asking the court to review the voluntary placement.</p> <p>C. OTHER VOLUNTARY PLACEMENTS – NOT DUE TO CHILD’S DISABILITY. In the case of a voluntary placement not due solely to the child’s developmental disability reviewed under RJPP 44.02, subd. 2, the child’s Out-of-Home Placement Plan shall be filed and served with the petition asking the court to review the voluntary placement.</p> <p><i>Comment: The failure to provide a timely written case plan is reversible error if the parent has not been informed of, or does not understand, the conditions he or she must satisfy to achieve reunification.</i></p>	<ul style="list-style-type: none"> • RJPP 37.03, subd. 2(a) • RJPP 44.02, subd. 1 (a) (requires report or petition to be filed within 165 days of voluntary placement) • RJPP 37.03, subd. 1(a) • RJPP 44.02, subd. 2 (requires petition to be filed within 90 days of voluntary placement) • Minn. Stat. § 260C.212, subd. 8
28.06	<p>CONTENT OF OUT-OF-HOME PLACEMENT PLAN FOR CHILD PLACED VOLUNTARILY OR INVOLUNTARILY</p> <p>A. GENERAL CONTENT. The Out-of-Home Placement Plan must contain:</p> <ol style="list-style-type: none"> 1. A description of the foster placement or residential facility which documents the agency’s determination of how the particular placement meets the child’s safety needs in the least restrictive, most family-like, setting available which is in close proximity to the home of the parent or parents or guardian of the child when the case plan goal is reunification, and how the placement is consistent with the best interests and special needs of the child²; 2. The specific reasons why the child is in placement; 3. When reunification is the plan, a description of the problems or conditions that led to placement and the changes the parent must make order for the child to safely return home; 	<p>Minn. Stat. § 260C.212, subd. 1(c)</p>

² Minn. Stat. 260C.212, subd. 2, contains a list of the factors the agency is to use in determining the needs of the child and what placement can best meet the child’s needs. The factors include consideration for placement with relatives, including important friends, and an individualized determination of the following:

- (1) the child’s current functioning and behaviors;
- (2) the medical, educational, and developmental needs of the child;
- (3) the child’s history and past experience;
- (4) the child’s religious and cultural needs;
- (5) the child’s connection with a community, school, and church;
- (6) the child’s interests and talents;
- (7) the child’s relationship to current caretakers, parents, siblings, and relatives; and
- (8) the reasonable preference of the child, if the court, or the child-placing agency in the case of a voluntary placement, deems the child to be of sufficient age to express preferences.
- (9)

	PROCEDURE	AUTHORITY
	<p>28.06 Content of Out-of-Home Placement Plan (continued)</p> <ol style="list-style-type: none"> 4. A description of the services offered and provided to prevent removal of the child from the home and to reunify the family, including (a) the specific actions to be taken by the parent to eliminate or correct the problems or conditions and the time period during which the actions are to be taken, and (b) the reasonable or active efforts to be made to achieve a safe and stable home for the child, including the social and other supportive services to be provided or offered to the parent, child, and foster care facility during the period the child is in placement; 5. A description of any services or resources that were requested by the child, child's parent, guardian, foster parent, or custodian since the date of the child's placement in the residential facility, and whether those services or resources were provided and if not, the basis for the denial of the services or resources; 6. The visitation plan for the child, the parent(s), relatives, and siblings who are in foster care but not in the same home as the child; 7. When adoption is the plan for the child, documentation of the steps the agency has taken to finalize that plan; 8. To the extent available and accessible, the health and educational records of the child; 9. If the child is age 16 or older and ordered into long-term foster care, the plan for independent living upon the child's leaving foster care. <p>B. ADDITIONAL CONTENT REQUIREMENTS.</p> <ol style="list-style-type: none"> 1. The plan must include a statement about whether the parent, legal custodian, and child participated in the preparation of the plan. 2. If a parent or legal custodian refuses to participate in the preparation of the plan, the information submitted with the plan must describe the agency's efforts to solicit the parents' participation and describe the parents' response. 3. The plan must also include a statement about whether the child's guardian ad litem; the child's tribe, if the child is an Indian child; and the child's foster parent or representative of the residential facility have been consulted in the plan's preparation. 4. The agency must document whether the parent or legal custodian; the child, if appropriate; the child's tribe, if the child is an Indian child; and foster parents have received a copy of the plan. <p><i>Comment: The Out-of-Home Placement Plan is the permanency roadmap for the case. Ideally, the agency, parent, child, guardian ad litem, foster parent, child's tribe, and others work together to develop a set of goals and services that will provide for the child's safety, permanency, and well-being. Another function of the Out-of-</i></p>	<p>RJPP 37.02, subd. 3</p> <p>RJPP 37.02, subd. 3</p>

	PROCEDURE	AUTHORITY
	<p>28.06 Content of Out-of-Home Placement Plan (continued)</p> <p><i>Home Placement Plan is to ensure that the child's well-being is attended to while in foster care and that the child receives needed services. It is a principle of social work that getting a person to recognize the issues the person is encountering³ can be an important component in addressing the issue. When the agency, the parent, and the child, where appropriate, can agree on what services will support the parent and provide safety and needed services to the child, the chances of the parent and the child being receptive to the services increases. This increases the likelihood of the child returning home. The documentation required regarding the parents' and child's participation in the development of the plan, as well as the requirement for consultation with others is an important early measure of the likelihood of having services in place that the parent will accept and which will achieve timely permanency for the child.</i></p>	
28.07	<p>PROCEDURE FOR APPROVING OR ORDERING OUT-OF-HOME PLACEMENT PLAN PRIOR TO DISPOSITION</p> <p>A. INVOLUNTARY CASES. When the court receives the out-of-home placement plan, and information about whether the parent or legal custodian, the child, if appropriate, the child's tribe, if the child is an Indian child, and the foster parents have received a copy of the plan, the court may approve the plan based upon the allegations contained in the petition. The court does this either by sending written notice of approval of the plan to all parties and the county attorney, or by stating the approval at a hearing after the plan has been filed with the court and provided to the parties, foster parents, and the child, as appropriate. When the out-of-home placement plan is either ordered or approved, the plan shall be incorporated into the order by reference. The plan need not be served with the order, unless the plan has been modified.</p> <p><i>Comment: See form on CourtNet entitled "Approval of Case Plan."</i></p> <p><i>Comment: Following the procedures outlined in this section regarding early approval of the Out-of-Home Placement Plan fulfills the court's responsibility under Minn. Stat. § 260.012 to oversee the delivery of services and ensure reasonable or active efforts are made upon the allegation that the child is in need of protection or services.</i></p> <p>B. Voluntary Cases. When reviewing voluntary placement matters under RJPP 44, the court shall consider the appropriateness of the out-of-home placement plan in determining whether the voluntary placement is in the best interests of the child.</p>	<ul style="list-style-type: none"> • RJPP 37.02, subd. 4 • Minn. Stat. § 260C.178, subd. 7 • RJPP 37.02, subd. 4 • Minn. Stat. § 260C.178, subd. 7 • RJPP 37.03, subd. 3 • RJPP 44

³ This comment assumes the accuracy of the responsible social services agency's assessment of the facts and its professional assessment of the safety issues for the child and the need for services to prevent future harm to the child and parental agreement with the agency's assessment, or at least parental acquiescence in the family's need for intervention. If the parent believes the agency made errors in its fact gathering or is wrong in its assessment of the risk to the child or the need for services, that is a factual issue for trial.

	PROCEDURE	AUTHORITY
	<p>28.07 Procedure for Approving or Ordering Out-of-Home Placement Plan Prior to Disposition (continued)</p> <p><i>Comment: In contrast to an involuntary removal, neither RJPP 44 nor Minn. Stat. § 260C.141, subd. 2, regarding voluntarily placements require the court to approve the Out-of-Home Placement Plan for a child voluntarily placed out of home. However, a review of the plan is an important component in fulfilling the court's obligation of ensuring the placement is necessary, meeting the child's needs, and in the child's best interests. The Out-of-Home Placement Plan documents for the court the efforts that the agency, parents, and child, where appropriate, are making to ensure the child's safety and well-being, including that the child is receiving appropriate treatment. It also documents the visitation plan for the parents and siblings, where appropriate. All of these are components in determining whether the placement is in the child's best interests and the child's needs are being met.</i></p>	
28.08	<p>NO COURT ORDER FOR PLAN PRE-DISPOSITION UNLESS PARENT AGREES</p> <p>A. COURT MAY MODIFY PLAN IF INADEQUATE. Upon notice and motion by a parent or child who agrees to comply with the terms of an out-of-home placement plan, the court may modify the plan and order the responsible social services agency to provide other or additional services for reunification if:</p> <ol style="list-style-type: none"> 1. Reunification services are required; and 2. The court determines the agency's plan is inadequate under Minn. Stat. § 260.012. <p>B. PARENT CANNOT BE ORDERED TO COMPLY PRE-DISPOSITION. Unless the parent agrees to the plan, the court cannot order a parent to comply with the plan until there is a disposition ordered (see Chapter 13).</p>	<ul style="list-style-type: none"> • RJPP 37.02, subd. 4(b) • Minn. Stat. § 260C.212, subd. 1 (b)(2) • Minn. Stat. § 260C.178, subd. 7(c) • RJPP 37.02, subd. 4(c) • Minn. Stat. § 260C.212, subd. 1(b)(2) • Minn. Stat. § 260C.178, subd. 7 (d)
28.09	<p>FINDING OF APPROVAL</p> <p>The court may find that the responsible social services agency has made reasonable efforts for reunification if the agency makes efforts to implement the terms of a court-approved out-of-home placement plan.</p>	<ul style="list-style-type: none"> • RJPP 37.02, subd. 4(c) • Minn. Stat. § 260C.178, subd. 7 (d)
28.10	<p>APPROVE THE OUT-OF-HOME PLACEMENT PLAN AT DISPOSITION</p> <p>At the disposition hearing conducted under RJPP 41, the court:</p> <ol style="list-style-type: none"> 1. Reviews the case plan, make modifications supported by the evidence appropriate, and approve the plan; 2. Orders all parties to comply with the approved case plan; and 3. Incorporates the approved case plan into the order and attaches a copy of the plan if it has been modified by the court. 	<ul style="list-style-type: none"> • RJPP 41.05, subd. 2(b) • Minn. Stat. § 260C.201, subd. 6

	PROCEDURE	AUTHORITY
	CHILD PROTECTIVE SERVICES CASE PLANS	
28.11	<p>CHILD PROTECTIVE SERVICES PLAN – CHILD NOT IN PLACEMENT</p> <p>A. Generally. A responsible social services agency may file a petition alleging that the child is in need of protection or services seeking to ensure the provision of adequate child protective services as required under Minn. Stat. § 626.556, subd. 10, and Minnesota Rule 9560.0228.</p> <p><i>Comment: A Child Protective Services Plan is developed by the responsible social services agency when it has conducted a child protection assessment and determined that the child is at significant risk of child maltreatment if protective intervention is not provided. See Minn. Stat. § 626.556, subd. 10(e). A Child Protective Services Plan is prepared for a child who remains at home. If a child needs to be removed from home, an Out-of-Home Placement Plan is developed (see section 27.06).</i></p> <p>B. TIMING. The Child Protective Services Plan shall be filed with the petition alleging that the child is in need of protection or services. An exception to this is permitted if the responsible social services agency includes a statement in the petition explaining why it has not been possible to develop the plan, which may include exigent circumstances or the non-cooperation of the child’s parents or guardian. The child protective services plan shall be provided to the parties by the responsible social services agency at the time it is filed with the court.</p> <p>C. PROCEDURE FOR ORDERING CHILD PROTECTIVE SERVICES PLAN. The court may order a Child Protective Services Plan:</p> <ol style="list-style-type: none"> 1. When the court finds that endangerment exists under RJPP 30 (see Chapter 8 regarding Emergency Protective Care (EPC) Hearing), the court may order the parties to comply with the Child Protective Services Plan as a condition of the child remaining in the care of the parent to ensure safety of the child or others; or 2. As part of a disposition under RJPP 41 whenever the child is in the care of a parent. <p>When the court orders a child protection services plan, a copy of the plan shall be attached to the court’s order and incorporated into the order by reference.</p>	<p>RJPP 37.04</p> <p>RJPP 37.04</p> <p>RJPP 37.04(a)</p> <ul style="list-style-type: none"> • RJPP 37.04(b) • Minn. Stat. § 260C.178, subd. 7 • Minn. Stat. § 260C.201, subd. 6(b)
	CHILD WITH DISABILITY	
28.12	<p>CASE PLAN FOR CHILD WITH DISABILITY</p> <p>A. FILING REQUIREMENT. If a child found to be in need of protection or services has a physical or mental disability and a case plan is required under Minn. Stat. § 245.4871, subd. 19 or 21; § 245.492, subd. 16; § 256B.092; or § 256E.08, the plan must be filed with the court. When an out-of-home placement plan is required under RJPP 37.02, or a child protective services</p>	RJPP 37.05, subd. 1

	PROCEDURE	AUTHORITY
	<p>28.12 Case Plan for Child With Disability (continued)</p> <p>plan is required under RJPP 37.04, the requirements of a plan under this section may be included in those plans and need not be a separate document.</p> <p>B. TIMING. The child protective Services Case Plan shall be provided to the parties by the responsible social services agency at the time it is filed with the court.</p> <p>C. COURT ORDER. The court may order that services be provided to the child according to the provisions of Minn. Stat. § 260C.201, subd. 1(a)(3).</p> <p><i>Comment: When the responsible social services agency petitions to have a child placed under juvenile court jurisdiction and the child has a physical or mental disability, the agency has a responsibility to ensure the provision of appropriate services. When a child is in foster care, a child's physical, psychological, emotional, and education special needs must be assessed by the agency and appropriate services identified and delivered to the child regardless of the reason for placement.</i></p>	<p>RJPP 37.05, subd. 1</p> <p>RJPP 37.05, subd. 2</p> <ul style="list-style-type: none"> • RJPP 37.05 • Minn. Stat. § 260C.201, subd. 1(a)(3) • Minn. Stat. § 260C.212
	NON-CHILD PROTECTION CASES	
28.13	<p>NON-CHILD PROTECTION CASES – CHILD NOT IN PLACEMENT</p> <p>A. GENERALLY. When a petition is filed alleging a child to be in need of protection or services and a case plan is not required under Minnesota's statutes (e.g., the child is alleged to be a <u>runaway</u> or habitual <u>truant</u>), the responsible social services agency or other agency shall file a case plan designed to correct the conditions that lead to the petition and may be based on the investigation and report required under section "C."</p> <p>B. TIMING. The case plan must be filed and served not later than five (5) days prior to the date of the disposition hearing (see Chapter 13).</p> <p>C. PREDISPOSITION INVESTIGATION AND REPORT. When ordered by the court, the responsible social services agency or probation officer shall investigate the personal and family history and environment of any child coming under its jurisdiction. The agency or probation officer must report its findings to the court. The content of the report must comply with RJPP 41.03, subd. 1, regarding pre-disposition reports. The person who intends to offer the report shall file the report and serve it upon all parties at least forty-eight (48) hours prior to the hearing.</p>	<ul style="list-style-type: none"> • RJPP 37.06, subd. 1 • Minn. Stat. § 393.07 <p>RJPP 37.06, subd. 1</p> <p>RJPP 37.06, subd. 2</p> <p>RJPP 41.03 (pre-disposition reports)</p>

	PROCEDURE	AUTHORITY
	<p>28.13 Non-Child Protection Cases – Child Not in Placement (continued)</p> <p>D. MEDICAL, PSYCHIATRIC, OR PSYCHOLOGICAL EXAMS ORDERED. The court may order any child coming within its jurisdiction to be examined by a qualified physician, psychiatrist, or psychologist appointed by the court. The cost of this is paid according to Minn. Stat. § 260C.331, subd. 1.⁴</p> <p><i>Comment: This provision, combined with the responsibilities of the agency under Minn. Stat. § 393.07, permits the court to order the local agency to investigate the child and the child’s family in order to assure protection to children who are confronted with social, physical, or emotional problems requiring protection and assistance. Case types to which this may apply include: <u>runaways</u>; <u>truants</u>; <u>delinquents who have been declared incompetent to proceed or not guilty by reason of mental deficiency</u>; and <u>delinquents under 10</u>.</i></p>	<p>RJPP 37.06, subd. 2</p> <p>Minn. Stat. § 260C.331, subd. 1</p>

⁴ With respect to costs of care, examination, or treatment, Minn. Stat. § 260C.331, subd. 1, provides as follows:

“Except where parental rights are terminated,

- (1) whenever legal custody of a child is transferred by the court to a responsible social services agency,
- (2) whenever legal custody is transferred to a person other than the responsible social services agency, but under the supervision of the responsible social services agency, or
- (3) whenever a child is given physical or mental examinations or treatment under order of the court, and no provision is otherwise made by law for payment for the care, examination, or treatment of the child, these costs are a charge upon the welfare funds of the county in which proceedings are held upon certification of the judge of juvenile court.

Minn. Stat. § 260C.331, subd. 1(a).