

Children's Justice Initiative**12-Month Permanency Timeline:
Calculating the Timeline,
Legally Permissible Options for Extending the Timeline, and
Strategies for Achieving Timely Permanency for Children**

Achieving timely child safety, permanency, and wellbeing are the foundational goals of Minnesota's child protection system. Children need stable families and supportive communities, especially during their early years, to form the secure attachments vital to normal child development, positive self-esteem, meaningful relationships, school achievement, and success in the adult world. Following are strategies for improving achievement of timely permanency for children in foster care.

Calculating the Timeline**Calculating the 12-Month Permanency Timeline** [Minn. Stat. § 260C.503, subd. 3\(a\)](#)

- When calculating the 12-month permanency timeline, the date of the child's placement in foster care is the earlier of:
 - the first court-ordered placement in foster care or with a noncustodial parent, or
 - 60 days after the date on which the child has been voluntarily placed in foster care by the child's parent or guardian.

- What counts toward the 12 months:
 - All days in court ordered foster care.
 - All days in court-ordered placement in the home of the noncustodial parent.
 - All days in a trial home visit with the parent from whom the child was removed.
 - All days in protective supervision with the noncustodial parent.
 - If a child has been placed in foster care or the home of a noncustodial parent within the previous five years under one or more previous petitions, the lengths of all prior time periods when the child was placed in foster care or with the noncustodial parent within the previous five years are cumulated. When a new petition is filed, the timeline begins where the last petition left off. For example, if three years ago the child was in foster care for 184 days and then was reunified, and today a new CHIPS petition is filed, the 12-month permanency timeline begins at day 185 not day 0.

- There are only 3 legally permissible exceptions for extending the 12-month permanency timeline (see below).

Limited Legally Permissible Options for Extending Timeline

Exception to 12-Month Timeline: Child in foster care 365 days or more on multiple CHIPS petitions over last 5 years [Minn. Stat. § 260C.503, subd. 3\(b\)\(2\)](#)

- If a child has been in court ordered placement in foster care or the home of a noncustodial parent for 12 months (365 days) or more under 1 or more prior petitions filed in the previous 5 years, the court may extend the total time the child may continue in out-of-home placement under the current petition up to an additional 6 months before requiring a permanency petition to be filed and issuing a permanency order if the court finds the extension is in the best interests of the child and the agency has established compelling reasons for extending the timeline,
 - Example 1: CHIPS petition 1 filed in another county 3 years ago and child in out-of-home placement 132 days; CHIPS petition 2 filed in another county 2 years ago and child in out-of-home placement 100 days; child removed from home today in your county today. Child has already been in placement 232 days of 365-day permanency timeline, so can proceed with CHIPS petition for 133 days before moving to permanency proceedings.
 - Example 2: CHIPS petition 1 filed in another county 3 years ago and child in out-of-home placement 278 days; CHIPS petition 2 filed in another county 2 years ago and child in out-of-home placement 100 days; child removed from home today in your county today. Child has already been in placement 378 days, which is beyond the 365-day permanency timeline, so county must bypass CHIPS and proceed directly to permanency, unless county demonstrates “compelling reasons” exception recommended which is approved by court and then can proceed with CHIPS (rather than permanency) up to 6 months.

Exception to 12-Month Timeline: Child on Trial Home Visit (THV) with Parent from Whom Child Removed [Minn. Stat. § 260C.503, subd. 3\(c\)](#); [Minn. Stat. 260C.201, subd. 1\(a\)\(3\)](#)

- THV may only be with parent from whom child removed: A trial home visit may be ordered only with the parent(s) from whom the child was removed (a trial home visit cannot be ordered with a noncustodial or nonresidential parent).
- THV may not exceed 6 months: A trial home visit may not exceed a total of 6 months (the 6 months can be consecutive or cumulative with a few months here and a few months there).
- During THV Parent has physical custody and agency has legal custody: When a child is on a trial home visit, the parent has physical custody of the child and the county has legal custody with the right to remove the child without a court order (but the county must request an EPC Hearing as soon as possible if the child is removed).
- Time in THV counts toward 12 months: Because the county has legal custody of the child during a trial home visit, time spent in a trial home visit counts toward the 12-month permanency timeline.
- Agency report recommending THV in lieu of permanency petition: If a child is on a trial home visit at the time the permanency petition is to be filed (day 335 – month 11), in lieu of filing a permanency petition the social worker may file a report detailing the parent’s progress on the out-of-home placement plan and the reasonableness of the agency’s efforts to finalize the child’s safe and permanent reunification with the parent, and may recommend postponing permanency proceedings while the trial home visit continues for the remainder of the 6 months.
- Required findings: A trial home visit should not be recommended by the agency or ordered by the court if the agency cannot demonstrate (and the court cannot find) that the parent has made substantial progress toward correcting the behavior or conditions that caused the child’s removal from home, the parent has the capacity to safely parent the child, and the child’s needs can be met by the parent.
- 6-month permanency extension: If the required findings are made, the court may postpone the permanency proceedings by allowing the trial home visit to continue for the remainder of the 6 months.

- Trial home visit then protective supervision: At the end of the 6-month trial home visit, the best practice is NOT to order reunification and termination of jurisdiction but, instead, to order a period of protective supervision (see below) with the custodial parent, which further extends the 12-month permanency timeline.
- Procedures if disruption of THV: If the court authorizes a continued trial home visit in lieu of permanency petition, and if that trial home visit terminates for safety reasons and the child is returned to foster care or the home of a noncustodial parent during the time when a permanency petition would otherwise have been filed, the court must commence or re-commence permanency proceedings no later than 30 days after the child is returned to foster care.

Exception to 12-Month Timeline: Child in Protective Supervision with Custodial Parent from whom Child Removed [Minn. Stat. § 260C.201, subd. 1\(a\)\(1\)](#)

- Custodial or noncustodial parent: Protective supervision may be ordered with the custodial parent from whom the child was removed or the noncustodial parent.
- Time frame: Protective supervision may be for an unlimited period of time, but a minimum of 3 months is a recommended best practice.
- Time with custodial parent does not count toward 12 months: Time spent under protection supervision of the agency in the home of a *custodial parent* does NOT count toward the 12-month permanency timeline because the parent has both legal and physical custody of the child.
- Time with noncustodial parent counts: Time spent under protection supervision of the agency in the home of a *noncustodial parent* counts toward the 12-month permanency timeline because the parent has physical custody of the child while the agency has legal custody of the child and must seek an ex parte order to remove the child if safety is an issue.
- Benefits of protective supervision: Ordering protective supervision with a custodial parent allows the court and agency to continue to monitor the parent’s progress on the case plan, which not only extends the permanency timeline, but also helps to ensure the child will be safe when permanently reunified thus reducing foster care re-entry.

Strategies for Achieving Timely Permanency

1. Scheduling Orders – Within 15 days of Admit/Deny Hearing

- a. **Purpose** [Juv. Prot. Rule 6.01](#)
To ensure dates for key events along the 12-month continuum are specified so all stakeholders keep them in mind and children achieve timely permanency.
- b. **Timing** [Juv. Prot. Rule 6.02, subd. 1](#)
 - Must be issued by the court in every CHIPS case.
 - Must be issued at or within 15 days of the admit/deny hearing on the CHIPS petition.
 - Should be stated on record and put in writing.
- c. **Content** [Juv. Prot. Rule 6.02, subd.2](#)
Must include the following events
 - Dates for pretrial hearing and trial, if any, including exhibit and witness lists;
 - Date for filing and service of the out-of-home placement plan (*within 30 days of removal*);
 - Date for permanency progress review hearing (*no later than 6 months from removal*);
 - Date by which county must file a permanency petition if child remains in out of home placement (*no later than 11 months from removal*);
 - Date for permanency petition admit/deny hearing (*no later than 12 months from removal*).

d. Format

- Maybe a stand-alone order (see Scheduling Order template) or embedded in order from Admit/Deny Hearing.
- Best practice is to include in every order as a reminder the dates for the permanency progress review hearing, permanency petition, and permanency admit/deny hearing.

e. Amendment [Juv. Prot. Rule 6.03](#)

- May be amended, so long as does not delay 12-month permanency timeline.

2. Permanency Progress Review Hearings – Not later than 180 days (6 months) from court ordered placement

a. Timing [Minn. Stat. § 260C.204\(a\)](#)

- No later than 6 months (180 days) after the child's court ordered placement in foster care or the home of the noncustodial parent.

b. Required for All Children, Regardless of Age [Minn. Stat. § 260C.204\(a\)](#)

- Hearing is for all children in foster care or the home of a noncustodial parent, regardless of child's age (no longer just for children under age 8)

c. Hearing Content [Minn. Stat. § 260C.204\(a\)](#)

During the hearing, the court must review:

- Whether the parent is making adequate progress on the out-of-home placement plan – is the parent making adequate progress.
- The specific services the agency has provided, and the specific efforts the agency has made, to reunify the family.
- The specific efforts the agency has made to finalize the permanent plan for the child and to make a permanent placement for the child in a home that will commit to being the legally permanent family for the child in the event the child cannot return home.
- Whether the agency's efforts to reunify the family and finalize the permanent plan for the child are considered reasonable (or active if the child is an Indian child) under the circumstances.
- If the child is an Indian child, the specific efforts the agency has made to prevent the breakup of the Indian family and to make a placement according to the placement preferences under ICWA § 1915.
- Whether the agency's efforts to prevent the breakup of the Indian Family and comply with the placement preferences are considered active efforts under the circumstances.

d. Findings and Decision [Minn. Stat. § 260C.204\(c\) and \(d\)](#)

- If the court finds the parent is complying with the out-of-home placement plan AND is maintaining regular contact with the child AND the child would benefit from reunification with the parent, the court may either:
 - Return the child home if the conditions that led to the out-of-home placement have been sufficiently mitigated so that it is safe for the child to return home and it is in the child's best interests to return home
- OR
- Continue the matter for up to 6 additional months, and then proceed to permanency if it is still not safe for the child to return home at that time
- If the court finds the parent is not complying with the out-of-home placement plan OR is maintaining regular contact with the child, the court may:
 - Order the social services agency to develop a plan for legally permanent placement away from the parent and direct the county attorney to file within 30 days a permanency petition supporting the agency's plan.

3. Permanency Petitions – Not later than day 335 (month 11) from court ordered placement

a. **Timing** [Minn. Stat. § 260C.505\(a\)](#)

- A permanency petition or a petition to terminate parental rights must be filed no later than month 11 for any child who remains in foster care or in the care of a noncustodial parent.
- A permanency or TPR petition is not required to be filed if the county intends to recommend that the child return to the care of the parent from whom the child was removed within 12 months of the child's removal.

b. **Exception** [Minn. Stat. § 260C.503, subd. 3](#)

- See section 1 for legally permissible options for extending the time for filing a permanency petition.

c. **Bypassing CHIPS – Expedited Termination of Parental Rights** [Minn. Stat. § 260C.503, subd. 1](#)

- The responsible social services agency must ask the county attorney to immediately file a termination of parental rights petition when:
 - the child has been subjected to egregious harm as defined in [Minn. Stat. § 260C.007, subd. 14](#);
 - the child is determined to be the sibling of a child who was subjected to egregious harm;
 - the child is an abandoned infant as defined in [Minn. Stat. § 260C.301, subdivision 2\(a\)\(2\)](#);
 - the child's parent has lost parental rights to another child through an order involuntarily terminating the parent's rights;
 - another child of the parent is the subject of an order involuntarily transferring permanent legal and physical custody of the child to a relative under in Minnesota or any other state ;
 - the parent has committed sexual abuse as defined in [Minn. Stat. § 626.556, subdivision 2](#), against the child or another child of the parent; or
 - the parent has committed an offense that requires registration as a predatory offender under [Minn. Stat. § 243.166, subdivision 1b\(a\) or \(b\)](#).
- The county attorney shall file a termination of parental rights petition unless the social services agency and county attorney determine that termination of parental rights is not in the child's best interests and the county instead files:
 - A petition to transfer of permanent legal and physical custody to a relative; or
 - A CHIPS petition alleging the child to be in need of protection or services and documents a compelling reason why termination of parental rights is not in the child's best interest.

4. Admit/Deny Hearings on Permanency Petitions – Not later than day 365 (month 12) from court ordered placement

a. **Timing** [Minn. Stat. § 260C.503, subd. 1](#)

- If it is not safe for the child to return home, the court must commence an admit/deny hearing on the permanency petition no later than 12 months after the child is ordered into foster care or in the care of a noncustodial parent.

b. **Exception** [Minn. Stat. § 260C.503, subd. 3](#)

- See section 9 for legally permissible options for extending the time for commencing the admit/deny hearing.

5. Decision on Permanency Petition – Not later than day 485; within 15 days of last witness (may be extended additional 15 days for good cause)

c. **Timing** [Minn. Stat. § 260C.503, subd. 1](#)

- If it is not safe for the child to return home, the court must commence an admit/deny hearing on the permanency petition no later than 12 months after the child is ordered into foster care or in the care of a noncustodial parent.

d. **Exception** [Minn. Stat. § 260C.503, subd. 3](#)

- See section 9 for legally permissible options for extending the time for commencing the admit/deny hearing.

6. Out-of-Home Placement Plans – Within 30 days of court ordered placement

a. **Timing** [Juv. Pro. Rule 37.02, subd. 2](#); [Minn. Stat. § 260C.178, subd. 7](#); [Minn. Stat. § 260C.212, subd 1\(a\)](#)

- Must be filed with the court and served on all parties (or their attorneys, if represented) within 30 days of child's court-ordered placement or voluntary placement agreement.
- Protective supervision case plans must be filed and served at the same time as the CHIPS petition.

b. **Preparation** [Minn. Stat. § 260C.212, subd 1\(b\)](#)

Must be prepared by the responsible social services agency:

- Jointly with the child's parent or parents or legal guardian.
- In consultation with the child's guardian ad litem, the child's foster parent or representative of the foster care facility, and, the child's tribe if the child is an Indian child.
- In consultation with the child, where appropriate. When a child is age 14 or older, the child may include two other individuals on the team preparing the child's out-of-home placement plan.

c. **Content** [Minn. Stat. § 260C.212, subd 1\(c\)](#)

Must include details listed in statute, specifically including:

- A description of the problems or conditions in the home of the parent or parents which necessitated removal of the child from home;
- The tasks the parent must complete;
- The specific changes the parent must make and sustain for a specified period of time in order for the child to safely return home; and
- A description of the services to be provided by the agency to reunify the family

d. **Court Approval** [Minn. Stat. 260C.178, subd. 7](#)

- Court may approve, modify, or reject out-of-home placement plan.
- Unless parent agrees to comply with the terms of the out-of-home placement plan, the court may not order a parent to comply with the provisions of the plan until the court finds the child is in need of protection or services and orders disposition. Court may order assessments without an adjudication.

7. Social Worker Reports to the Court – At least 5 business days prior to hearing

a. Timing [RJPP 38.01, subd. 2](#)

- Must be filed with the court and served upon the parties at least 5 business days prior to the hearing at which the report will be considered.

b. Key Content [RJPP 38.01, subd. 5](#)

- Child's name and date of birth and current address (not the address of social services).
- Names of both of the child's parents (or legal custodians).
- Date child removed from home and date ordered into foster care or home of noncustodial parent.
- Total length of time child has been in foster care or home of noncustodial parent, including for the current episode and all placements within the last 5 years.
- The number of times the child has reentered foster care prior to age 21.
- The number of placements the child has had prior to age 21.
- Whether the child is an Indian child and whether the ICWA applies.
- Date and description of all previous case openings for the child and the child's siblings in the current county and any other county.
- Summary of the parents' progress on the out of home placement plan, including the progress the parent is making on correcting the conditions in the home of that necessitated removal of the child from home and the specific changes the parent must make and sustain for a specified period of time in order for the child to safely return home.
- A summary of the current status of the child's safety, permanency, and wellbeing, including educational readiness, physical health, and mental health.
- If the child is not placed with siblings, a summary of efforts the agency has made to place siblings together.
- A description of all services provided by the agency to reunify the family.
- The number of visits the case worker has had with the child and family since the last court hearing.
- A description of the frequency and quality of visits between the child and the child's parents, siblings, and relatives since the last hearing.

8. Guardian ad Litem Reports to the Court – At least 5 business days prior to hearing

a. Timing [RJPP 38.11, subd. 2](#)

- Must be filed with the court and served upon the parties at least 5 business days prior to the hearing at which the report will be considered.

b. Key Content [RJPP 38.11, subd. 11](#)

- Summary of the issues that brought the child and family into the court system.
- List of the dates and types of contacts the guardian ad litem had with the child since the last court hearing.
- List of the resources or persons contacted who provided information to the guardian ad litem since the last court hearing.
- List of all documents relied upon when generating the court report.
- Summary of information gathered regarding the child and family since the date of the last hearing relevant to the pending hearing.
- List of any issues of concern to the guardian ad litem about the child's or family's situation
- List of recommendations designed to address the concerns and advocate for the best interests of the child.

9. Appointment of Guardians Ad Litem and Counsel for Parents and Children

- a. **Guardian Ad Litem** [Juv. Prot. Rule 26.01, subd. 3](#)
 - Appointment of a GAL must occur prior to the EPC hearing so the GAL appears at the EPC hearing.
- b. **Attorney for Child or Parent** [Juv. Prot. Rule 25.01](#)
 - The right to court appointed counsel attaches no later than when the party first appears in court.
 - The court should appoint counsel for the child and parents so they appear at the EPC hearing.