

ISANTI COUNTY  
CHILDREN'S JUSTICE  
INITIATIVE



PROTOCOL GUIDELINES  
MARCH 2013

**ISANTI COUNTY CHILDREN’S JUSTICE INITIATIVE  
PROTOCOL GUIDELINES**

**TABLE OF CONTENTS**

Topic	Page No.
Introduction .....	3
Perspectives on Foster Care .....	4
Voluntary Placement 260C .....	7
Voluntary Placement 260D .....	9
Foster Care .....	14
Court Records .....	18
Emergency Placement .....	21
Emergency Protective Care Hearing .....	24
Fathers .....	28
Court Scheduling .....	40
Children in Court .....	41
Non-Emergency Petition Process .....	43
Legal Representation for Parties .....	44
Guardian ad Litem Representation .....	45
Admit/Deny Hearing .....	47
Discovery/Disclosure .....	49

**Pretrial .....52**

**Court Trial .....53**

**Case Plans .....55**

**Court Reports.....57**

**Disposition Hearing.....61**

**Review Hearing .....63**

**Trial Home Visit.....65**

**Permanency .....66**

**Termination of Parental Rights.....70**

**Youth in Foster Care from Age 18 – 21.....73**

**Indian Child Welfare Act .....87**

**Private Child in Need of Protection .....92**

**Glossary of Acronyms .....94**

**Glossary of Terms .....95**

# ISANTI COUNTY CHILDREN'S JUSTICE INITIATIVE Protocol Guidelines

## Introduction

In 2000 the Department of Human Services and the Minnesota Supreme Court entered into the joint venture of improving the court processing of cases of children in foster care, called the Children's Justice Initiative (CJI.) It was spearheaded by then Chief Justice Kathleen Blatz. The mission of the CJI is to ensure that, in a fair and timely manner, abused and neglected children involved in the juvenile protection court system have safe, stable, and permanent families.

The purpose of the CJI is for the Department of Human Services and the Minnesota Supreme Court to work closely with the Juvenile Courts, Social Services Agencies, County Attorneys, Public Defender, Court Administrators, Guardians ad Litem, and other key stakeholders to improve the processing of child protection cases and the outcomes for abused and neglected children. When identifying and implementing improvements, the project's goal is for all stakeholders to operate "through the eyes of the child."

The specific goals of the CJI are to ensure that the:

- 1) Child is safe, protected from abuse and neglect, and maintained in the child's own home whenever possible;
- 2) Child lives in a permanent and stable home;
- 3) Child's well-being and sense of time are the focus of practice and procedure; and
- 4) Proceedings are conducted in a fair manner with strong judicial oversight.

In 2004 the Isanti County Children's Justice Initiative Team was developed.

### **Purpose of the Isanti County CJI Team Protocol Guidelines**

The state CJI goals were based on Child In need of Protection or Services (CHIPS) cases, however, voluntary foster care treatment cases also benefit from the collaboration among all stakeholders. Thus, Isanti County CJI has included voluntary foster care treatment cases in their implementation of CJI practices.

CHIPS and children in voluntary foster care treatment cases are complex. The statutes and rules of CHIPS and voluntary foster care treatment cases help provide a framework in managing their complexity. Carrying out the mission of the CJI within the statutory framework requires diligence. Isanti County CJI Team developed protocol guidelines to diligently carry out the CJI mission.

The guidelines serve as a means of communication among Isanti County stakeholders. It reflects the agreed upon practices in implementing the statutes and rules of CHIPS and voluntary foster care treatment cases while ensuring the goals of the CJI are followed. Periodic updates will occur to reflect improved practices and new practices from integrating new legislation.

ISANTI COUNTY CHILDREN'S JUSTICE INITIATIVE  
Protocol Guidelines

**Perspectives on Foster Care**

"There is not a doubt in my mind that had I stayed with my biological mother much longer, I would have definitely been killed. Foster care was not only an escape, but literally a whole new world. At times, it was extremely difficult to adjust, for I never quite knew what to expect.

As an adult survivor, I am forever grateful to 'the system' that so many in society ridicule without mercy. It would have been easy for me to exploit the weakness of social services and foster care and all that they entail. That was *never* the premise of the story, but rather to take the reader into a world rarely seen by the general public, -- through the eyes of a tortured, programmed-to-fail child who is 'placed' into the care of others."  
**David Pelzer, author of The Lost Boy: A Foster Child's Search for the Love of a Family.**

"I changed schools three times, so friends were hard to keep. I had a lot of conflict at school. I felt isolated and alienated."

"You need a stable environment both at home and at school to graduate. You get emotionally affected when you are always moving around."  
**(Improving Educational Outcomes for Youth in Care: A National Collaboration.)**

"So, this is how it is in foster care, you always have to move from foster home to foster home and you don't have any say in this and you are always having to adapt to new people and new kids and new schools. Sometimes you just feel like you are going crazy inside. And another thing, in foster care you grow up not knowing that you can really be somebody. When I was in foster care, it didn't seem like I had any choices or any future. All kids deserve families. They need a family, to have someone, this is father, this is mother – they need a family so they can believe in themselves and grow up to be somebody. This is a big deal that people don't realize. I wish everyone could understand."  
**Former foster youth from Pew Commission on children in foster care.**

**PERSPECTIVES FROM ISANTI COUNTY YOUTH WHO HAVE BEEN IN FOSTER CARE**

**An interview with a male youth regarding foster care and the court system:**

**Foster care:** He reported his foster family has been very accepting of him into their home and has helped him to feel comfortable. He thought Isanti County has good foster families and he had positive experiences with them.

When asked what he would tell a friend if he found out they were going to be working with child protection, foster care and court, he reported he would say hopefully you get a place like this. It's fun (referring to his foster home.) He would tell them when working with a social worker, expect they want you to be up front; tell the truth; and most of the time they're serious.

When asked if he could change anything about the system what would it be? He reported he would have more clothing allowance, so that when the new school year begins, you can have a clothing allowance at that time too.

Court: It was a new experience for him. The thing he dislikes the most about court is to wait so long in the lobby while waiting for court to begin. He also thinks the prices in the vending machines are too high.

**What one female youth told her social worker after being interviewed by Department of Human Services staff:**

What's the best thing your social worker has ever done for you? "She was disappointed in me. No one has ever cared enough about me to be disappointed.... She's been the one constant adult in my life. .... I told her that I couldn't be in the city because I knew I would get in trouble. I wanted to be placed in a rural area. She listened."

**Other quotes from foster teens about foster care:**

"Everything will be ok and it's kind of scary at first, but it will get better because we (Isanti County) have awesome workers and foster parents."

"It's not as bad as it seems and you get what you need, because you slowly become a family and they give you food, clothes and other things. The bad thing about foster care is not being with your parents."

**16 year old male entering foster care discussing a truancy report filed by the school:**

"I am doing better with my attendance. My other schools didn't care enough about me to send me to court to attend school."

**What a 17 year old male, who has been in foster care for 2 ½ years, would tell someone entering foster care:**

Court: "At first, court was kind of intimidating but I got over it."

Foster Care: "I think it [foster care] helped me with things I need to work on. The people that I get to be with are nice people. They know what I am going through and the workers from my county are great. There isn't much I don't like. I am getting the help I need to be a successful adult.....

What makes it positive is [when] the people you meet, when you are first in foster care, make you feel welcome.....

I'd tell them it'll be hard for the first few weeks but you will eventually get used to it and it isn't all that bad after the first month. Just try to stay in one home."

**What a former foster youth would tell a new youth entering foster care:**

"I would tell them that the foster parents are doing this solely for them and to accept the opportunity to meet new people and make healthy relationships. I would tell them to take advantage of all the great things that can happen to them. I'd tell them that they now will be able to have opportunities that they couldn't have before foster care. Through it all, therapy does help. And for them to know you guys *[social workers]* have their best interest in mind; to accept the help and know that you *[social workers]* do not judge them. You are there for them. And also, that, at times, it's not going to be easy, and for them to have good communication with the foster parents."

**A Parent's perspective on a children's mental health voluntary placement:**

"I feel very positive about our overall experience. We were so stressed and had nowhere to go until you became involved with us. You took a lot of stress away and supplied us with tools to help get our family back together.

The parental fee was adjusted to our income and worked out well for us.

Woodland Hills was a very good experience for [our daughter.] She is more confident and thinks before she acts (most of the time). It would have been helpful if we lived closer to Woodland, but otherwise I feel everything this last year has been a great learning process."

**ISANTI COUNTY CHILDREN'S JUSTICE INITIATE  
PROTOCOL GUIDELINES**

**Voluntary Foster Care Placements Per MN Statute 260C**

**Petition Designation of Voluntary Foster Care**

260C will be added to the title of each report or petition that is filed with the court so as to designate a 260C petition from a 2600 petition.

**Voluntary Placement Agreement**

There may be times when it is in the best interests of a child to be placed in foster care on a voluntary basis. When this occurs, a Voluntary Placement Agreement (VPA), approved by the Department of Human Services, is signed by the agency and child's parent or guardian. If the child is not returned home within 90 days, Isanti County Family Services (ICFS) will submit a report to the County Attorney requesting a petition alleging the child is in need of protection or services, termination of parental rights or for permanent placement be submitted to the Court.

**CHIPS Petition**

Within 90 days of the voluntary agreement, the CHIPS petition will be filed by Court Administration after receiving the petition from the County Attorney. The petition shall state:

- The reasons why the child is in placement.
- The progress on the case plan.
- The statutory basis for the petition.
- The number of days and date range of prior placements (clearly marked within

the petition.) An Admit/Deny Hearing will be scheduled within 20 days of the service of the petition.

ICFS will provide any change of address to the County Attorney as well as any changes/discharges of the child's placement. The County Attorney's Office will notify Court Administration of said changes by filing the "Notice of Change in Placement" form.

**Findings**

If all parties agree and the Court finds that it is in the best interests of the child, the Court may find the petition states a prima facie case that:

- The child's needs are being met.
- The placement of the child in foster care is in the best interests of the child.
- Reasonable efforts to reunify the child and parent or legal custodian are being made.
- The child will be returned home in the next 90 days.

If the Court makes the above listed findings, the Court shall approve the voluntary placement arrangement. Continuation of Admit/Deny Hearing

When the Court approves the voluntary placement agreement, it will not require any party to admit or deny the petition and will continue the matter for 90 days to assure the child returns to the parent's home. A court date for the Admit/Deny Hearing will be provided to the parties at that time.

## **Further Proceedings**

### **Child Returns Home in 90 Days**

ICFS will submit a report to court when the child returns home and the progress made by the parent on the case plan. After receiving the report to court, the County Attorney will request the matter be dismissed prior to the scheduled hearing.

### **Child Does Not Return Home in 90 days**

ICFS will submit a report to court identifying reasons why the child was not returned home. The County Attorney will submit the report to Court Administration so that the report is filed within 10 days of the Admit/Deny Hearing.

### **Disagreement with Placement**

If the Court or any party, including the child, disagrees with the voluntary placement or the sufficiency of the services offered by ICFS, or if the Court finds that the placement or case plan is not in the best interests of the child, the Court shall direct the parties to admit or deny the petition and set the matter for further proceedings.

## **MN Statutes and Rules**

MN Statue 260C.141, Subd.2

MN Statue 260C.212, Subd.8

MN RJPP44

**ISANTI COUNTY CHILDREN'S JUSTICE INITIATE  
PROTOCOL GUIDELINES**

**VOLUNTARY PLACEMENTS PER MN STATUTE 260D**

**Use of Voluntary Placements**

Voluntary placements will be used for treatment due to a child's disability, emotional disturbance or developmental disability per 260D. A voluntary placement agreement (VPA) is signed when the placement is mutually agreed by the parents, county case manager, and health plan/insurance as applicable. Also, the Juvenile Placement Screening Team must approve that placement out of the home is medically necessary for needed treatment.

**Administrative Review at 180 days**

Isanti County Family Services (ICFS) will give notice to the parent(s), child, and facility of the administrative review process, informing them of the right to a court hearing if requested. A court report "A Child in Voluntary Placement due Solely to the Child's Disability" will be submitted to the County Attorney by ICFS in the 5<sup>th</sup> month of placement (within 165 days). Attachments to the report will include the VPA, face sheet, Juvenile Placement Screening Team signature page, out of home placement plan (OHP), and facility treatment plan and independent living plan as applicable. The County Attorney will submit a petition and proposed order to the court for the judge's signature prior to the 180th day of placement. The County Attorney office will notify Court Administration of any changes. When a report is filed, the agreement must be approved by a Judge or must be considered in a hearing within 10 days. The court file is closed following the judges signature so permanency is not calculated for 260D cases by court administration.

**Permanency Review at 14 months**

If the child remains in voluntary placement for 13 months or 15 of the last 22 months, the agency is required to either terminate the voluntary placement agreement, file a petition for Permanency Review Regarding a Child in Voluntary Foster Care for Treatment petition or file a TPR petition.

ICFS shall submit a report to court to the County Attorney's office with the OHP, treatment plan and other attachments as appropriate. The County Attorney will file a permanency petition with the court. A court hearing will be held in the 14<sup>th</sup> month of placement and reviewed every 12 months thereafter as long as the child remains in placement. A Guardian ad Litem (GAL) or a Public Defender (PD) will not be assigned to the child unless ordered by the judge. The court file is left open following this hearing. A notice of placement change memo will be submitted to the County Attorney office by ICFS for all changes/discharges which occur after the court file has been opened.

**Annual permanency reviews**

Prior to the annual court review, ICFS sends the court report with attachments to the County Attorney.

**Types of Placement**

Placements for evaluation and/or treatment of an emotional disturbance are typically at a residential treatment center, treatment foster home, or group home.

**Changes**

The County Attorney's office will notify Court Administration of any changes (including any new changes in placement and submit new addresses and names of person that the child is placed with by filing the "Notice of Change in Placement" form as received by ICFS.

**Youth 12 or Older**

For a child 12 years of age or older who disagrees with the foster care facility or services provided under the OHP plan, a judge may assign a GAL or PD. If there is disagreement, standards and procedures as outlined in 260C.163 will be used to make the determination on appointment.

**Minnesota Statute and Rule**

MS 260D.05

260C.163

260C.212 sub 7

**Children's Justice Initiative**

**Administrative and Judicial Events for a Child in Voluntary Foster Care for Treatment  
Minnesota Statutes § 260D**

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Event	Timing & IV-E Judicial Determinations	Relevant Documents/Forms
<p><b>Child enters voluntary foster care for treatment</b> and last necessary signature is obtained on voluntary placement agreement (VFCA).</p>	<p><b>Day 0</b> Minn. Stat. § 260D.03, subd. 2, and § 260D.01</p>	<p><b>SSIS Voluntary Foster Care Agreement for Child in Placement for Treatment:</b> Non-Indian child: SSIS 164 and 166 Indian child: SSIS 163 and 165</p>
<p><b>Out-of-home Placement Plan</b> developed with parent, child, age 12 or older, and others.</p>	<p><b>Day 30</b> Minn. Stat. § 260C.212, subd. 1; Minn. Stat. § 260D.04</p>	<p>OHPP: SSIS 83</p>
<p><b>Administrative review.</b> Child, age 12 and over, must be consulted in administrative review.</p>	<p><b>Before day 165</b> and every 6 months unless reviewed in court Minn. Stat. § 260D.05</p>	
<p><b>Agency Report to Court for Review of Child in Voluntary Foster Care for Treatment Due to Disability</b> includes:</p> <ol style="list-style-type: none"> <li>1. out-of-home placement plan;</li> <li>2. a written summary of administrative review which must occur before day 165;</li> <li>3. (a) child's individual treatment plan (Minn. Stat. § 245.4871, subd. 21); or (b) child's individual service or program plan (Minn. Stat. § 256B.092, subd. 1b; M.R. Ad. 9525.0004 subp. 11); or (c) child's waiver plan or individual interagency intervention plan (Minn. Stat. § 125A.023, subd. 3 (c));</li> <li>4. if the child, age 12 or older, disagrees with the placement or services, an explanation of the child's disagreement;</li> <li>5. other information from agency, parent, child, guardian ad litem, or foster parent;</li> <li>6. documentation of disclosure to family/facility</li> </ol>	<p><b>Day 165</b> Minn. Stat. § 260D.06; MRJPP 43.02</p> <p><i>Note:</i> The court may make a discretionary appointment of GAL and/or attorney for child when:</p> <ul style="list-style-type: none"> <li>• Child is age 12 or older;</li> <li>• Child disagrees with the foster care facility or the services provided</li> </ul>	<p><b>CAP link on CourtNet:</b> <a href="http://courtnet.courts.state.mn.us/100/?page=3329">http://courtnet.courts.state.mn.us/100/?page=3329</a> (accessible only to court personnel) <b>Report to Court: SSIS 169</b></p>
<p><b>Hearing</b>, but only if requested under Minn. Stat. § 260D.06 (d) or MRJPP 43.03, subd. 2</p>	<p><b>No timing requirement;</b> IV-E required findings due on or before day 180</p>	<p><i>Note:</i> Court may make findings pending hearing. Minn. Stat. § 260D.06 (e)</p>
<p><b>Order</b> with judicial determinations regarding:</p> <ul style="list-style-type: none"> <li>• whether placement is in the child's best interests;</li> <li>• whether the agency and the parent are appropriately planning for the child; and</li> <li>• If the child, age 12 or older, disagrees with placement or plan, the court will determine whether it is appropriate to appoint a GAL and an attorney for the child using Minn. Stat. 260C.163</li> </ul>	<p><b>Day 175</b> Minn. Stat. § 260D.06, subd. 2(e); MRJPP 43.03, subds. 1 and 3 IV-E requirement = finding that "placement is in the child's best interests" by day 180; if no or late finding, there is no Title IV-E reimbursement for cost of foster care after day 180</p>	<p><b>MNCIS Notice of Filing for 260D cases</b></p>

Event	Timing & IV-E Judicial Determinations	Relevant Documents/Forms
<p><b>Petition for Permanency Review Regarding a Child in Voluntary Foster Care for Treatment</b> Court administrator will set Permanency Review Hearing and give notice by U.S. mail.</p>	<p><b>13 months</b> <i>Minn. Stat. § 260D.07(c); MRJPP 43.04, subd. 1 and 2</i></p>	<p><b>MNCIS Notice of Hearing</b></p>
<p><b>Permanency Review Hearing</b> If a Petition for Permanency Review Regarding a Child in Voluntary Foster Care for Treatment is filed, a hearing is held.</p> <p>The court inquires whether the parent consents to an order approving the agency's reasonable efforts to finalize the plan for the permanent placement of the child<sup>1</sup> and the agency's individualized determination of "compelling reasons."</p> <p>The court inquires of the child's GAL and any other party<sup>2</sup> if the party agrees that the agency has made reasonable efforts to finalize the permanency plan for the child and the agency's compelling reasons to continue the voluntary foster care arrangement.</p> <p>If the parent consents, the court may:</p> <ol style="list-style-type: none"> <li>1. approve the agency's compelling reasons that voluntary foster care is in the child's best interests; and</li> <li>2. find that the agency has made reasonable efforts to finalize a plan for the permanent placement of the child.</li> </ol> <p>The court may approve the placement notwithstanding the child's objection.</p> <p><i>Note: If the placement is not approved, the child must return home or a juvenile protection petition must be filed.</i></p> <p>✓ Additionally: The court must give notice of annual review requirement required as long as the child remains in foster care. Court may not adjudicate CHIPS; court may not order transfer of custody to agency<sup>3</sup></p> <p>If the parent does not consent to the findings and order, the matter is no longer voluntary and the agency must determine whether to return the child home or proceed otherwise.</p>	<p><b>14 months</b> <i>Minn. Stat. § 260D.07(e); MRJPP 43.04, subd. 3</i></p>	<p><b>MNCIS hearing type: PPR</b></p>
<p><b>Order from Permanency Review Hearing</b> with findings required under <i>MRJPP 43.04, subd. 3(e) or (f)</i></p>	<p><b>Order is filed within 15 days of hearing and sent out with notice of filing within 5 days of receipt by court administrator</b> <i>MRJPP 10</i> <i>IV-E requirement = reasonable efforts finding is due during the 14<sup>th</sup> month after the VFCA or IV-E claiming must stop until the finding is made</i></p>	<p><b>MNCIS Notice of Filing for 260D cases with notice of annual review requirements</b> <i>Minn. Stat. § 260D.08; MRJPP 43.04(g)</i></p>

<sup>1</sup> The permanent plan for the child is continued voluntary placement in foster care for treatment. This permanent plan is appropriate because the parent continues to be involved with the child and is the active decision-maker on major life issues. The only reason the child is in foster care is to access treatment.

<sup>2</sup> "Any other party" is not defined in the statute. Presumably, MRJPP 21 and 22 regarding parties and participants apply. Therefore, court may make the child, age 12 or older who objects to the placement or services, a party, so the child can interpose a formal objection.

<sup>3</sup> Neither adjudication nor a transfer of legal custody to the county agency is legally permitted at any point in the court review process for a child in voluntary foster care for treatment under Chapter 260D. Neither adjudication nor custody to the agency is required for Title IV-E reimbursement. Title IV-E requirements are met when the county agency has legal responsibility for the placement, which is maintained through the voluntary placement agreement between the agency and the child's parent(s).

Event	Timing & IV-E Judicial Determinations	Relevant Documents/Forms
<b>Administrative Review</b> (agency responsibility; not a judicial event)	<b>Every 6 months</b> during placement unless court hearing is held <i>Minn. Stat. § 260C.212, subd. 7</i>	
<b>Annual In-court Review:</b> <b>County Agency submits report</b> and sends a copy to child, age 12 or over, parent, foster care provider, child's GAL and attorney, if any. Report lets court administrator know that the child continues in foster care and <b>an annual review must be set. Notice of Hearing</b> is sent by court administrator; <b>Purpose of hearing</b> is for the court to determine whether the agency made reasonable efforts to finalize the permanency plan for the child, which is the exercise of due diligence by the agency to: <ol style="list-style-type: none"> <li>(1) ensure that the agreement for voluntary foster care is the most appropriate legal arrangement to meet the child's safety, health, and best interests;</li> <li>(2) engage and support the parent in continued involvement in planning and decision making for the needs of the child;</li> <li>(3) strengthen the child's ties to the parent, relatives, and community;</li> <li>(4) implement the out-of-home placement plan and ensure that the plan requires the provision of appropriate services to address the physical health, mental health, and educational needs of the child; and</li> <li>(5) ensure appropriate planning for the child's safe, permanent, and independent living arrangement after the child's 18th birthday.</li> </ol>	<b>Every 12 months</b> during placement <i>Minn. Stat. § 260D.08;</i> <i>MRJPP 43.05</i> <i>IV-E requirement =</i> Judicial finding that "reasonable efforts to finalize the permanency plan for the child" is required every 12 months, and if the finding is not made, the agency must stop claiming IV-E reimbursement until the finding is made.	<b>SSIS Court Report</b> <b>MNCIS Notice of Hearing</b>

# ISANTI COUNTY CHILDREN'S JUSTICE INITIATIVE

## Protocol Guidelines

### Foster Care

#### Parent Blue Folder/Child Red Folder

Upon the placement of their child in foster care for child protection purposes, Isanti County Family Services (ICFS) provides a blue colored folder to each parent. It includes the following documents:

- *When Your Child is Removed from Your Home* brochure.
- *Families Guide to Child Protection* brochure.
- *Parental Fee* brochure.
- *Child Protection Notice of Privacy Practices*.
- List of services in Isanti County (crisis, counseling/psychological evaluations, financial, transportation, food, clothing and housing, legal, crime victim, sexual assault, domestic violence, chemical use assessment vendors).
- *Mental Health Resource Guide of Isanti County*.
- Releases for parents to sign in order for the Social Worker to talk with relatives about possible placement of the child(ren).
- Concurrent/Permanency Planning disclosure statement.
- *When You Have Phone Contact with Your Child* -- guidelines on phone conversations between parents and children in foster care.
- *Visitation Guidelines* – guidelines on visits between parents and children in foster care.
- Relative Outline -- Each parent complete this form by listing relatives with their addresses and phone numbers for the relative search.
- *Background and Health History* form for parents to complete providing the agency health information about the child and family members.

Upon the placement of each child (for child protection and treatment purposes) in a foster home, ICFS provides a red colored folder to the foster care provider. It includes the following documents:

- Information sheet about the child.
- *MN Health Passport for Child and Teen Checkups* – a book that the foster care provider can document checkups for the child which can be given to the custodial parent when the child leaves foster care.
- A medical guarantee payment form – foster parents show this to medical providers which states Medical Assistance has been applied for the child, however, the number has not been issued and ICFS guarantees payment for prescription medication and physician visits, as necessary.
- Other child foster care licensing forms to follow licensing statutes and rules.

#### Placement Requirements

Children who are unable to be placed with their noncustodial parent and have been placed in the care, custody and control of ICFS must be placed in a licensed foster home or a relative/kin home that

agrees to become a licensed foster home. The foster home is chosen based upon the following ten best interest factors:

- The child's current functioning and behaviors.
- The child medical needs.
- The child's educational needs.
- The child's developmental needs.
- The child's history and past experience.
- The child's religious and cultural needs.
- The child's connection with community, school and church.
- The child's interests and talents.
- The child's relationship to the current foster care provider, parents, siblings and relatives.
- The child's preference, when appropriate.

### **Placement Preferences**

The type of placement for a child must be based on the child's individual needs and in the child's best interest. It should be a least restrictive, family-like setting that is close to the child's home and school. Consideration for placement with a relative and important friend is prioritized in the following order:

- An individual who is related to the child by blood, marriage or adoption; or
- An individual who is an important friend with whom the child has resided with or had significant contact.

### **Race, Color, National Origin**

Placement of a child cannot be delayed or denied based on race, color, or national origin of the foster parent or the child.

### **Religious Preferences**

Placement preference by the birth parent in a home with the same or similar religious background shall be honored.

### **Sibling Placement**

Siblings will be placed together whenever possible, unless it is determined not to be in the best interests or unless efforts to have the siblings live together are unsuccessful. Those efforts will be reported to the Court for the Court to review. The Court shall inquire at every hearing the efforts ICFS made in order to have the siblings placed together. Should the Court find the efforts were unsatisfactory, the Court may order ICFS to make further efforts. If efforts were satisfactory and it is in the best interests of the children to not be placed together, The Court may make a finding as such.

A visitation plan shall be designed when siblings are not placed together.

### **Diligent Efforts**

ICFS will conduct diligent efforts to locate both parents when their whereabouts are unknown for the purposes of assessing for services as well as for placement. Such efforts shall include the following:

- Asking known parent of other parent's information (dates and locations) about marriages, divorces, legal proceedings regarding paternity, date of birth, full legal name, social security

number, whereabouts of other parent, date and place of child(ren)'s birth, and whereabouts of other relatives.

- Child support information to locate other parent.
- Father's Adoption Registry.
- Internet to locate other parent.

### **Relative Search**

ICFS has an established process to conduct relative searches for children who enter foster care. The Social Worker meets with each parent to gather names, addresses and phone numbers of family members, and, when necessary, close family friends. Letters are sent to the relatives inquiring of their willingness and ability to become a placement and permanent placement resource for the child(ren). The letters notify the relatives of the following:

- Their opportunity to participate in the care and planning for the child which can be lost if they chose to not respond to the inquiry.
- Foster care licensing requirements.
- Information of how to complete the application for foster care licensing.

A thorough search is conducted for up to six months, with due diligence to identify and notify adult relatives prior to placement or within 30 days after the child's removal.

### **Court Findings**

At a regularly scheduled hearing not later than three months after the child's placement, ICFS will submit the Relative Search Report to Court. The Court will make a finding whether due diligence was done to identify and search for maternal and paternal relatives, to engage the relatives and inform them of their ability to participate in the care and planning of the child, and to determine if ICFS selected a home that met the needs of the child.

If relatives responded to letters indicating their wish to participate in the placement and planning of the child, the court shall order ICFS to continue to engage these relatives for such purposes as well as any other relatives that come forth to ICFS' attention. The Court may order ICFS to reopen its search for relatives when it is in the child's best interest to do so.

The search shall also include getting information from the child in an age-appropriate manner. Such information would include people the child considers family members or important friends with whom the child has resided or had significant contact.

If it is likely that a child will not return to the parent's care and a permanent resource family cannot be identified, ICFS will send a second letter to the relatives stating the child is in need of a permanent home. When the search is finished a report will be submitted to the Court with the Social Worker's signature.

Should the parent refuse to provide relative contact information, ICFS, through the County Attorney, will request the Court to order the parent to provide the necessary contact information.

## **Court Reviews**

The Court shall review the following:

- ICFS's diligent efforts at finding biological parents.
- Placement preferences with a relative or significant friend.
- ICFS's efforts to find a relative for placement and shall make a finding about those efforts.
- The parents' religious preference, if necessary.

## **Monthly Visits**

Every child who is in foster care or on a trial home visit shall be visited by the Social Worker at least monthly, and this shall occur where the child resides, whether it is in the foster home or in the parent's home.

## **YOUTH WHO WISH TO LEAVE FOSTER CARE**

### **Youth Leaving Foster Care and 90 Day Transition Plan**

For youth who will be discharged from foster care at age 18 or older, a 90 Day Transition Plan will be completed that includes the following:

- Where the youth will live after leaving foster care.
- What health coverage the youth will have, what providers are part of that health network, and any upcoming medical appointments.
- The youth's educational plans.
- Identification of mentors and supportive adults.
- The youth's work force supports and employment services.
- Community resources for the youth with phone numbers.
- Information about health care directives, power of attorney, proxy, etc.

### **Discharge of Youth from Foster Care and Court Jurisdiction**

When a youth no longer meets eligibility of extended foster care after age 18, the youth may be discharged from foster care. When a youth leaves foster care after age 18, ICFS shall provide the youth notice that services will be terminated which includes information on appealing this decision to the Department of Human Services.

The Court's jurisdiction may be terminated on the motion of any interested party and when the Court determines it is no longer necessary to protect the child's best interests.

### **MN Statutes and Rules**

MN Statute 260C.150 –diligent efforts

MN Statute 260C.178 Subd. 1 (k) – sibling placement

MN Statute 260C.193, Subd. 3 best interest of the child

MN Statute 260C.212 – placement

MN Statute 260C.212, Subd. 5 relative

MN Statute 260C.617

10/12

# ISANTI COUNTY CHILDREN'S JUSTICE INITIATIVE

## Protocol Guidelines

### **Court Records**

#### **Case Records**

Juvenile protection case records relating to juvenile protection matters, as those terms are defined in Rule 2.01, are presumed to be accessible to any party and any member of the public for inspection, copying or release. Records or information to which access is restricted under Rule 8.04 shall not be redacted prior to transmission to the clerk of appellate Courts. All juvenile protection case records deemed to be accessible to the public per Rule 8 (Accessibility to Juvenile Protection Court Records) filed before July 1, 2002, shall not be accessible to the public for inspection, copying and release.

#### **Petition**

The County Attorney shall file a redacted petition along with any original petition containing confidential information. It is best to file the redacted petition at the same time as the original. When this is not possible, the County Attorney shall submit a redacted petition to the Court Administrator no later than the end of the next work day after the petition is filed.

#### **Reports**

Authors of any public reports to the Court should compile the contents of their reports in a way that provides for confidential names to be identified early in the report and to subsequently use neutral terms or phrases to identify the confidential names. Initials should not be repeated. This will be helpful in the accurate redaction of confidential information before public access. Foster parents, child victims of sexual abuse and reporters of abuse or neglect are some of the names that are confidential, pursuant to Rule 8.04 which list records not accessible to the public. When writing reports that are open to the public, the author should be aware that the information contained in the report may be read by members of the public and should make efforts to protect confidential information.

#### **Offered at Trial**

When confidential documents are being offered at trial, the attorney or party submitting the exhibit should request a court order protecting the document, pursuant to rule 8.07, when appropriate.

#### **File Redacting**

When any member of the public requests access to an open child protection file, the Court Administrator shall have up to three days to redact the confidential information in the file for general public access.

#### **Hearings**

Absent exceptional circumstances, hearings in juvenile protection matters are presumed to be accessible to the public. Hearings, or portions of hearings, may be closed to the public by the Court only in exceptional circumstances. Any party who is entitled to summons or participant who is entitled to notice or any person who is summoned or given notice shall have the right to attend the

hearing unless excluded per Rule 27. 04. "The Court may exclude from any hearing any party or participant, other than a GAL or counsel for any party or participant, only if it is in the best interests of the child to do so or the person engages in conduct that disrupts the Court. The exclusion must be noted on the record and the reason for the exclusion given..." Absence from a hearing by any party or participant shall not prevent the hearing from proceeding provided appropriate notice has been served. The closure of any hearing shall be noted on the record and the reason for the closure given.

**Minnesota Statutes and Rules**

MN Statute 260C.171 – Records

**Minnesota Rules of Juvenile Protection Procedure**

Rule 8 – Accessibility of Juvenile Protection Case Records

Rule 27 – Access to Hearings

Rule 38 – Report to Court

Pursuant to Rule 8.04 the following records (a-m) in the court file are not accessible to the public. Unless otherwise ordered by the Court, parties shall have access for inspection and copying to all records in the court file, except records (b), (d) and (e) listed below:

- (a) Official transcript of testimony taken during portions of the proceedings that are closed by the presiding judge;
- (b) Audio tapes or video tapes of a child alleging or describing physical abuse, sexual abuse or neglect of any child;
- (c) Victims' statements;
- (d) Portions of juvenile protection case records that identify reporters of abuse or neglect;
- (e) HIV test results;
- (f) Medical records, chemical dependency evaluations and records, psychological evaluations and records, and psychiatric evaluations and records;
- (g) Sexual offender treatment program reports;
- (h) Portions of photographs that identify a child;
- (i) Applications for ex parte emergency protective custody orders, and any resulting order, until the hearing where all parties have an opportunity to be heard on the custody issue, provided that, if the order is requested in a Child in need of Protection or Services (CHIPS) petition, only that portion of the petition that requests the order shall be deemed to be the application for purposes of this section;
- (j) Records or portions of records that specifically identify a minor victim of an alleged or adjudicated sexual assault;
- (k) Notice of pending court proceedings provided to an Indian tribe by the responsible social services agency pursuant to the Indian Child Welfare Act
- (l) Records or portions of records which the Court in exceptional circumstances has deemed to be inaccessible to the public; and
- (m) Records or portion of records that identify the name, address, home, or location of any shelter care or foster care facility in which a child is placed pursuant to an emergency protective care placement, foster care placement, pre-adoptive placement, adoptive placement, or any other type of court ordered placement.

12/11

## ISANTI COUNTY CHILDREN'S JUSTICE INITIATIVE Protocol Guidelines

### Emergency Placement

#### **Court Filings and Notices**

A Child in need of Protection or Services (CHIPS) petition will be filed when the Isanti County Family Services (ICFS) Social Worker and Isanti County Attorney agrees it is in the best interests of the child for ICFS to intervene and have care, custody and control of the child. The CHIPS petition is usually initiated when a Child Custody Hold is signed by law enforcement or an Ex Parte Order for Emergency Protective Care (EPC) is signed by a Judge. Court Administration will be notified by the County Attorney to set a date for an EPC Hearing prior to the CHIPS petition filing so as to ensure the EPC Hearing occurs within the required 72 hours of the hold or Ex Parte Order.

The process of initiating a CHIPS Court file begins when the ICFS Social Worker completes a CHIPS Referral face sheet and writes a report requesting care, custody, and control of the child to the County Attorney (see attached face sheet.) The County Attorney uses the report to write the CHIPS petition. The County Attorney will file the CHIPS petition with 10<sup>th</sup> Judicial Isanti Court Administration before the EPC Hearing. Court Administration will then open a Court file.

Notices of the EPC Hearing will be provided by ICFS and Court Administration. The Social Worker will provide notice of the EPC Hearing to the parents, foster parents, and child, when appropriate, and will submit a completed EPC Hearing contact list verifying the notices to Court Administration. Court Administration will contact the public defender for children age 10 and over. Court Administration will attempt to appoint a Guardian ad Litem (GAL) prior to the hearing.

Once a GAL is appointed, the GAL will make an effort to contact the child and other parties prior to a hearing.

#### **Placement Type**

Placement with a familiar relative is considered in the best interests of the child. ICFS will attempt to locate a biological parent before placement in a county licensed child foster home. If a biological parent is unavailable or there is a safety concern regarding the biological parent, ICFS will consider appropriate adult relatives as a placement resource for the child. If neither a parent nor appropriate relative is available, the child will be placed in a county licensed foster home. When care, custody, and control is granted to ICFS, a thorough and comprehensive relative search will begin.

#### **Resources Provided to Parents**

Each parent will be provided a "blue folder" by an Isanti County Family Services (ICFS) Social Worker when their child is taken into custody. The blue folder will include the following: *When your child is removed from your home* pamphlet, *Parental Fees* pamphlet, *Families' Guide to Child Protection* pamphlet, *Child Protection Notice of Privacy Practices*, *Services in Isanti County* sheet, *Mental Health Resource Guide of Isanti County*, concurrent/permanency disclosure statement, phone contact with

children guidelines, visitation with children guidelines, outline for maternal and paternal relative information, and *Background and Health History* document. This is not an exhaustive list of documents and resources provided to the parent.

**Minnesota Statutes and Rules**

**Minnesota Statutes**

260C.175 – Taking Child into Custody

260C.163, Subd. 5 – Guardian ad Litem

260C.175 – Taking Child into Custody

260C.176 – Release or Detention

260C.181 – Place of Temporary Custody; Shelter Care Facility

260C.212, Subd. 5 – Children in Placement

260.751 – 260.835 – MN Indian Family Preservation Act

**MN Rules of Juvenile Protection Procedure**

Rule 28 – Emergency Protective Care Order and Notice

Rule 29 – Procedures During Period of Emergency Protective Care

Rule 26 --- Guardian ad Litem

## CHIPS REFERRAL

Referred By: Isanti County Family Services

Proposed Petitioner:

Date:

<b>INFORMATION ABOUT THE CHILDREN</b>
---------------------------------------

Name: Gender:	DOB: Race:	Name: Gender:	DOB: Race:
Name: Gender:	DOB: Race:	Name: Gender:	DOB: Race:
Address:		Current Placement:	
		Releasing provider's address will endanger the children and/or provider <input type="checkbox"/> Yes <input type="checkbox"/> No	

MOTHER <span style="float: right;">Party/Participant</span>	FATHER <span style="float: right;">Party/Participant</span>
Name: DOB: Race:	Name: DOB: Race:
Address:	Address:
Telephone:	Telephone:
Custody:    Legal <input type="checkbox"/> Physical <input type="checkbox"/>	Custody:    Legal <input type="checkbox"/> Physical <input type="checkbox"/> <input type="checkbox"/> Presumed <input type="checkbox"/> Alleged <input type="checkbox"/> Adjudicated

OTHER PEOPLE SIGNIFICANT TO CASE			
County Attorney Use Only:	Party/Participant	Party/Participant	Party/Participant
Name:			
Relationship			
Address:			

Notes:

ISANTI COUNTY CHILDREN'S JUSTICE INITIATIVE  
Protocol Guidelines

**Emergency Protective Care (EPC) Hearing**

If a child is removed from the home and placed in emergency protective care (i.e. foster care)- whether at the beginning of any CHIPS proceeding or later, an Emergency Protective Care (EPC) hearing is scheduled and held. The purpose of the hearing is to determine whether the child should be returned home or placed in protective care and if a child protection matter exists.

This hearing must be held within seventy-two hours of the child being removed from the home. Saturdays, Sundays, legal holidays and the day the child was removed are not included when calculating 72 hours (RJPP 4.01). The EPC hearing may be continued for up to eight days if the court determines that continuance is necessary. (RJPP 30.01)

The Court will make a prima facie determination at the EPC hearing.

Upon notice by the County Attorney, Court Administration shall promptly schedule an Emergency Protective Care hearing and immediately provide notice to the County Attorney and Public Defender (for children 10 and over). Because of the short timing for scheduling of this hearing the County Attorney's Office shall inform Isanti County Family Services who will notify all parties and participants of the date and time of the hearing. The parents shall be advised to arrive 30 minutes before the hearing for an opportunity to apply for a court-appointed attorney and to view the CHIPS video. The Court shall arrange for the appointment of the Guardian ad Litem as soon as the Emergency Protective Hearing has been scheduled. Court Administration shall provide all future hearing notices required once the Petition has been filed and a court case opened.

**The following documents shall be filed with Court Administration:**

- **In cases where children are removed due to a court hold:** The County Attorney and the Social Worker must prepare an EPC Affidavit with an attached report addressing the appropriate placement of the child, and, in most cases, recommending that care, custody and control of the child(ren) be transferred to ICFS.
  
- **In cases where children are removed due to a police hold:** a CHIPS petition shall be filed.

The Judge must make a finding as to whether a prima facie case that the child is in need of protection or services exists; confirm notice to parties and participants; determine temporary custody and parenting time of the child; determine whether there exists less restrictive alternatives to protective care; find whether reasonable efforts have been made to avoid placement; confirm relative search efforts; address child attendance at hearings; direct parental cooperation in establishing fees and

encourage the parents to watch the CHIPS video immediately after this hearing. The Judge must make clear statements of the Court's findings and order on the record.

Court Administration shall schedule the Admit/Deny Hearing and serve the parties and participants with the date and time at the Emergency Protective Care Hearing. The Court shall announce the date and time of the next hearing in court and assure that personal service of the notice or summons is completed. All parties/participants must be prepared with their calendars to immediately identify any conflicts taking into consideration the time requirements.

A proposed court order is to be prepared by the County Attorney as soon as possible but no later than 10 days following the hearing. This order shall contain detailed findings and conclusions.

*Review of Diligent Efforts.* No later than three months after a child is placed out of the home, the Court must conduct a review hearing to determine whether Isanti County Family Services has made diligent efforts to identify and search for relatives, and to assess whether Isanti County Family Services has selected a home that meets the needs of the child. Often the most practical way to handle this requirement will be for the Court to schedule the first disposition review hearing for 90 days after the child was placed out of the home, and for the Court to handle both the review of diligent efforts and the review of disposition in that hearing.

#### **Minnesota Statutes and Rules**

##### **Minnesota Statutes**

260C.163-Hearing

260C.178- Emergency Removal Hearing

260C.212, Sub. 5-Relative Search

260C.193, Sub. 3 Best Interests of the Child

260C.202 (b) Court Review of Foster Care

##### **Minnesota Rules of Juvenile Protection Procedure**

Rule 4.01-Computation of Time

Rule 21-Parties

Rule 22-Participants

Rule 25-Right to Representation; Appointment of Counsel

Rule 26-Guardian ad Litem

Rule 27-Access to Hearings

Rule 30-Emergency Protective Care Hearing

Updated 1/28/13

## **Emergency Protective Care (EPC) Hearing Checklist**

1. Identification of file and name and number of persons present
2. Determine whether it is in the child's best interest to be present or excluded
3. State the purpose of the hearing
4. Verify information on child including whether child is Native American and if so have proper notice has been given to the tribe.
5. Verify notice of hearing and copy of petition has been given to all required persons
6. Advise parties as to right of representation
7. Give general rights advisory and inquire on the record whether parties and participants understand the basic rights including permanency timeline.
8. Explain factual allegations and statutory grounds
9. Hear any motions as to the sufficiency of the petition and jurisdiction and motions to intervene.
10. Make initial determination that prima facie case exists.
11. Make a protective care determination.
12. Make a determination as to whether reasonable or active efforts were made to prevent out-of-home placement or whether reasonable efforts are not required.
13. Determine whether reasonable efforts for reunification are required including whether a termination of parental rights petition has been filed and schedule a permanency hearing if so required.
14. Ask the parent or legal guardian or the child, where the child's behavior is the basis for the petition, to enter an admission or denial.
15. If a denial is entered the Court shall schedule a Pretrial Conference and/or Trial and issue a Scheduling Order within five days of the hearing.

**16. The Court shall issue an Order that includes:**

- The names of the parties, participants, and attorneys who appeared, were served or who were not served
- Parents' names, dates of birth and addresses
- Father's legal status and whether paternity must be established
- Whether child is an Indian child and whether proper notice was given to the tribe
- Date of child's removal,
- Child's placement pending further procedures,
- Date case plan will be served and filed,
- Conditions to be imposed,
- Services, examinations or evaluation to be provided to the child or parents,
- Terms of parental and sibling visitation,
- Parents' responsibility for costs of care,
- Date of next hearing,
- Statement as to the expedited permanency timeline,
- Findings as to admission or denial,
- Statement as to previous orders remaining in full force and effect.

**17. Serve notice of the date, time, and location of the next hearing.**

# ISANTI COUNTY CHILDREN'S JUSTICE INITIATIVE

## Protocol Guidelines

### Fathers

A father-child relationship will be established and/or maintained whenever possible when a child is placed in foster care unless there are safety concerns for the child which may necessitate supervision of any contact.

#### Definitions\*

##### Adjudicated Father

A man determined by a Court or pursuant to a Recognition of Parentage under Minnesota Statute 257.75 to be the biological father of the child.

An adjudicated father, that is not a legal custodian, is considered a participant in Child In need of Protection or Services (CHIPS ) hearings, a party in Termination of Parental Rights (TPR) and permanency hearings, and has the right to receive notices of those hearings.

##### Presumed Father

A man is presumed to be the biological father of a child if:

- He was married to the child's mother when the child was born or the child was born within 280 days of the termination of marriage (e.g. death, annulment, dissolution, divorce, declaration of invalidity, or a decree of legal separation entered by a Court).
- He and the mother marry after the child was born and is named on the child's birth certificate or he is obligated to pay support.
- He has taken the child into his home and openly holds out the child as his biological child.
- Prior to August 1, 1995, he and the mother have signed a Declaration of Parentage which is filed with the Division of Vital Statistics, Minnesota Department of Health.
- He and the mother have signed a ROP.

If there is more than one presumed father with more than one signed ROP, the father and mother will be requested to apply for paternity services through ICFS Child Support Unit for further genetic testing.

If at any time, a man comes forth with a positive blood or genetic test, that man will be considered a presumed father.

A presumed father is considered a participant in Child In need of Protection or Services (CHIPS) hearings, a party in Termination of Parental Rights (TPR) and permanency hearings, and has the right to receive notices of those hearings.

##### Alleged Father

A man is alleged to be the biological father of a child if:

- He claims or is claimed by the mother to be the biological father of the child.
- There is no legal determination that he is the biological father.
- He and the mother have not signed a Recognition of Parentage (ROP).

Any alleged father will be requested to apply for paternity services which may include genetic testing through the Isanti County Family Services (ICFS) Child Support Unit in order to establish the father-child relationship.

An alleged father is considered a participant in Child In need of Protection or Services (CHIPS ), Termination of Parental Rights (TPR), and permanency hearings, and has the right to receive notices of those hearings.

### **Diligent Efforts for Unknown Fathers**

ICFS will make diligent efforts to identify and locate both parents of any child that is in foster care pursuant to CHIPS hearings. Should the father be the parent whose location is unknown, efforts to find him will include the following:

- Asking the mother for the following:
  - The identity of the father and his full legal name, date of birth and social security number.
  - Dates and locations of marriages and divorces.
  - Date and place of child's birth.
  - Names of relatives.
- Asking ICFS Child Support Unit for information.
- Search MN Father's Adoption Registry.
- Other reasonable means to identify and locate the father (e.g. Internet public searches)

When the father is identified and located he will be requested to apply for paternity services from ICFS Child Support Unit. ICFS will inform the County Attorney who will provide the father's identity and address to Court Administration so that the father receives notices of hearings.

### **Concurrent Permanency Planning and Case Plans**

ICFS will provide an adjudicated or presumed father with the "blue folder" that includes the concurrent disclosure statement. ICFS will have the father sign the disclosure statement. ICFS will design a case plan with the father that outlines what is expected of ICFS, the father and foster parents. It also will include a visitation plan for when the child is not placed with the father.

### **Placement and Background Study**

When a child is unable to live with the mother, the noncustodial or nonresident father will be considered for caring for his child and providing for the day-to-day care. When there is a plan for this to happen, the father may be asked by ICFS to participate in a background study that may include a review of any past criminal activities. If the father is an alleged father, he will need to apply for paternity services from ICFS Child Support Unit. Once the background check is completed and if the child is not placed with him, a letter will be sent informing the father of his right to be heard in Court regarding the decision.

**\* Please see attached: Fathers Under the Minnesota Rules of Juvenile Protection Procedure by Ann Ahlstrom and Paternity Chart from Hennepin County**

**MN Statutes and Rules**

**MN 260C.150 Diligent Efforts**

**MN 260C.209 Background Checks**

**MN 260C.212, Subd. 2 Placement Decision Based on Best Interest of the Child**

**MN 260C.212, Subd. 4 Agency Responsibility for Parents and Children in Placement**

**MN 260C.213 Concurrent Permanency Planning**

**MN Rule 21.01, 22.01,**

**MN Rule 37.02**

**MN Rule 41.05, Subd. 2(a)(1)**

2/12

# FATHERS AND THEIR RIGHTS IN MINNESOTA

See Minnesota Rules of Juvenile Protection Procedure, Rule 2.01 for definitions and Rules 21 and 22 for party/participant status. For a legal resource on understanding paternity, see the *Unmarried Fathers' Guide to Paternity, Custody, Parenting Time and Child Support in Minnesota* (by author), available at [www.mnifathers.org](http://www.mnifathers.org).

In the 2010 Minnesota Legislative Session, several changes were made involving parents and fathers. The definition of parent has changed to align more closely with family court. A new "right to be heard" was instituted for parents with a legally recognized parent and child relationship. Here is the relevant portion of that statute (Effective August 1, 2010):

Minn. Stat. 260C.163, Subd. 2. A parent with a legally recognized parent and child relationship must be provided the right to be heard in any review or hearing held with respect to the child, which includes the right to be heard on the disposition order under section 260C.201, subdivision 1, parental visitation under section 260C.178, and the out-of-home placement plan under section 260C.212, subdivision 1. The right to be heard does not automatically confer party status. Party status is governed by the Minnesota Rules of Juvenile Protection Procedure.

Type of Father (in order of least to most robust rights)	*NEW* From 260C.163, subd. 2 "Right to be Heard"	Party Status at CHIPS stage	Party Status at TPR /Permanency stage
<b>Father on MFAR</b> - Man who is not alleged, presumed, adjudicated or legal custodian, but has signed up on the Minnesota Fathers' Adoption Registry (Minn. Stat. § 259.52)	Doesn't apply	Participant (treated as an alleged father)	Party
<b>Alleged Father</b> – Individual claimed by party or participant to be the biological father	Doesn't apply	Participant	Participant (unless status as father has changed)
<b>Father w/Positive Genetic Test</b> – When there is a positive (for paternity) genetic test result under Minn. Stat. 257.62, subd. 5 (paternity statute)  Note: this should be a transitory phase because paternity adjudication should be part of the case plan.  See also Minn. Stat. 260C.150, subd 2. (2009), which specifies that for the purposes of child protection proceedings, a positive test result shall be used by the court to treat a person determined to be the biological father of a child by a positive test as if the individual were a presumed father under section 257.55, including giving the biological father the right to notice of the proceedings and the right to be assessed and considered for day-to-day care of his child.	No, Right doesn't apply, until the father is adjudicated by court order or a Recognition of Parentage is signed by both parents	Participant	Party
<b>Presumed Father</b> – Individual who is presumed to be the biological father of a child under Minn. Stat. § 257.55, subd. 1	Only if they meet the specific circumstances for each subdivision (e) – (h) see below	Participant	Party

CWTS  
 CWFT Module 7 Chapter 4  
 Fathers and Their Rights in Minnesota

# FATHERS AND THEIR RIGHTS IN MINNESOTA

<p><b>Presumed Father</b> –under Minn. Stat. § 257.55, subd. 1, paragraphs (a), (b) or (c) <u>and</u> no action taken to declare the nonexistence of the father and child relationship</p> <p>For reference: (a) = Child born during marriage or within 280 days of divorce... (except if Husband signed a non-paternity statement and biological father signed a ROP); (b) = Before the child's birth, they attempted to marry each other...; (c) = After the child's birth, married or attempted to marry each other AND there is a ROP signed, or with his consent he is named on the birth certificate, or he is obligated to support the child under a written voluntary promise or by court order</p>	<p>Yes, Right to be heard, see above</p>	<p>Participant (unless meets legal custodian definition), also has a right to intervene as party</p>	<p>Party</p>
<p><b>Presumed Father</b> –under Minn. Stat. § 257.55, subd. 1, paragraph (d) <u>and</u> there is an adjudication of paternity under sections 257.51 to 257.74 (i.e. paternity order from court) <u>or</u> the mother and father have signed a Recognition of Parentage having the effect of an adjudication under section 257.75 (ROP statute)</p> <p>For reference, (d) = "holding out", while the child is under the age of majority, he receives the child into his home and openly holds out the child as his biological child</p>	<p>Yes, Right to be heard, see above</p>	<p>Participant, (unless meets legal custodian definition), also has a right to intervene as party</p>	<p>Party</p>
<p><b>Presumed Father</b> –under Minn. Stat. § 257.55, subd. 1, paragraph (e), (f), (g) or (h) <u>and</u> there is an adjudication of adjudication of paternity under sections 257.51 to 257.74</p> <p>For reference, (e) = signed the Declaration of Parentage (old way to acknowledge paternity outside of court, cannot use this form since August 1, 1995); if another man is presumed under this paragraph to be the child's father, the Declaration is only effective with the written consent of that man or after the presumption has been rebutted [in court] – Note: the Declaration is only going to come into play for teenagers, since it cannot be used since 1995; (f) = ROP signed and there is another man presumed to be the father; (g) = two ROPs signed for same kid, same mom, two different dads [in reality, this rarely happens, second ROP would likely be rejected]; (h) = ROP signed but one or both of the parents signing it were less than 18 years of age</p>	<p>Yes, Right to be heard, see above</p>	<p>Participant, (unless meets legal custodian definition), also has a right to intervene as party</p>	<p>Party</p>

# FATHERS AND THEIR RIGHTS IN MINNESOTA

<p><b>Adjudicated Father</b> – Individual determined by a court, or pursuant to a Recognition of Parentage to be the biological father</p> <p>NOTE: Most unmarried fathers fall into this category because most unmarried parents sign a Recognition of Parentage. However, if there is a custody or parenting time order, the father may be a legal custodian—a look at the court order is needed to see if he was granted any custody rights.</p>	<p>Yes, Right to be heard, see above</p>	<p>Participant, (unless meets legal custodian definition), also has a right to Intervene as party</p>	<p>Party</p>
<p><b>Legal Custodian</b> – A person who by court order or statute has sole or joint legal or physical custody of the child (could be by divorce, paternity order, separate custody/parenting time action etc.)</p>	<p>Yes, Right to be heard, see above</p>	<p>Party</p>	<p>Party</p>
<p><b>Indian Father (ICWA Case)</b> - Same as above, except that there are additional ways that an unwed father can be considered a parent under the Indian Child Welfare Act. Besides establishing paternity under Minnesota law (through either a court order or Recognition of Parentage), individual tribal customs, rules and laws control when their paternity has been acknowledged in another way sufficient to give an unwed father status as a parent for ICWA purposes. Note: Pursuant to a change in court rule, all Indian parents are parties from the beginning of the case.</p>	<p>Yes, Right to be heard, see above</p>	<p>Party</p>	<p>Party</p>

A simplified way to view this: All fathers listed here are at least a participant in the CHIPS phase. If they are a legally established father, they have the right to be heard and are at least a participant to the CHIPS case with the right to Intervene as a matter of right. If they are a legal custodian (meaning they have some custody rights) or are an Indian father, they are a party to the CHIPS case.

Find out:

1. Were these parents ever married?
2. Was he signed up on the Fathers' Adoption Registry?
3. Is there a Recognition of Parentage (or a Declaration of Parentage if the child was born before August 1, 1995)?
4. Is there a court order adjudicating paternity?
5. Is there a positive genetic test?
6. Is this an ICWA case?
7. Is there a court order that determines custody rights (divorce, paternity, establishment of custody if not married and signed ROP...)?

CWTS  
 CWFT Module 7 Chapter 4  
 Fathers and Their Rights in Minnesota

# PATERNITY CHART

September 2006

- ▶ Requirement for every child: A birth certificate and paternity finding.
- ▶ Requirement for every TPR or perm order for child born after 1/1/98: Certification from Father's Adoption Registry.
- ▶ This chart is a guideline, exceptions will occur that require specific findings.

**GLOSSARY:**

**Recognition of Parentage (ROP):** Document signed by parents for children born after 8/1/95. Minn. Stat. §257.75.  
**Declaration of Parentage (DOP):** Document signed by parents for children born before 8/1/95. Minn. Stat. §257.34.  
**Father's Adoption Registry:** For children born after 1/1/98, the alleged father may register with MN Dept. Health within 30 days of the child's birth to receive notice of an adoption proceeding. Minn. Stat. §259.52.  
**Notice of Intent to Retain Parental Rights:** For children born prior to 1/1/98, an alleged father could file a notice with the MN Dept. of Health within 90 days of the child's birth to preserve his right to notice of an adoption proceeding. Minn. Stat. §259.51 [repealed in 1997 for births on or after 1/1/98].  
**Notice of Adoption Proceeding:** Persons entitled to notice of an adoption proceeding under Minn. Stat. §259.49 are parties to TPR and Permanency proceedings pursuant to Mn.R.Juv.P.21.01, Subd. 3.

Status of Father	Legal basis	Evidence required for proof <ul style="list-style-type: none"> <li>◊ Child's birth certificate always required</li> <li>◊ Certified copies of documents is best evidence</li> </ul>	Finding required in CHIPS Adjudication and Permanency Orders
<b>ADJUDICATED</b>	An individual determined to be the biological father of a child by a court of pursuant to a Recognition of Parentage under Minn. Stat. §257.76 and Mn.R.Juv.P. 2.01(e) Paternity established by Family Court Adjudication per Minn. Stat. Ch. 257	<ul style="list-style-type: none"> <li>▪ Birth Certificate</li> <li>▪ Paternity Adjudication from Family Court</li> </ul>	[Father's name] was adjudicated the father of [child] on [date] in [County] District Court, State of [state]. Specify terms of custody, parenting time, child support.
	Recognition of Parentage (ROP) has same meaning as adjudication pursuant to Mn.R.Juv.P. 2.01(a)	<ul style="list-style-type: none"> <li>▪ Birth Certificate</li> <li>▪ Recognition of Parentage from MN Dept of Health</li> <li>▪ Note: ROP is insufficient if it is provided from parent; it must be documented that it was filed with MN Dept of Health</li> </ul>	[Father's name] is considered adjudicated as the father of [child] because he and mother were over the age of eighteen when they signed a Recognition of Parentage form which was filed with the Minnesota Department of Health, Division of Vital Statistics.

Status of Father	Legal basis	Evidence required for proof <ul style="list-style-type: none"> <li>◆ Child's birth certificate always required</li> <li>◆ Certified copies of documents is best evidence</li> </ul>	Finding required in CHIPS Adjudication and Permanency Orders
<b>PRESUMED</b>	An individual is presumed to be the biological father pursuant to any of the following subsections of Minn. Stat. §257.55, Subd. 1.		
	a. Married to mother and child born within marriage or born within 280 days after termination of marriage by death, annulment, or divorce.	<ul style="list-style-type: none"> <li>▪ Birth certificate</li> <li>▪ Marriage certificate OR testimony of mother or father</li> <li>▪ If applicable, divorce or annulment decree or death certificate</li> </ul>	[Father's name] is presumed to be the father of [child] because [he was married to the mother when the child was born] OR [the child was born within 280 days of his (divorce from the child's mother) OR (death)].
	b. Child born during a void or voidable marriage or within 280 days of its termination.	<ul style="list-style-type: none"> <li>▪ Birth Certificate</li> <li>▪ Marriage certificate OR testimony of mother or father</li> <li>▪ Note: even with a Court declaration of invalidity of the marriage, man is still presumed to be the father</li> </ul>	[Father's name] is presumed to be the father of [child] because prior to the birth of the child he and mother entered into a marriage that was determined to be void/voidable.
	c. Man marries mother after child's birth and (a) acknowledges paternity in writing filed with Vital Statistics; (b) named as father on birth certificate with his consent; or (c) obligated to support child under written promise or court order.	<ul style="list-style-type: none"> <li>▪ Birth Certificate</li> <li>▪ Marriage certificate OR testimony of mother or father</li> <li>▪ ROP or DOP filed with MN Dept of Health OR Court Order or agreement for child support</li> </ul>	[Father's name] is presumed to be the father of [child] because he married the mother after the birth of [child] and . . . (a) (b) or (c).
	d. Takes child into his home and openly holds child out as his biological child.	<ul style="list-style-type: none"> <li>▪ Birth certificate</li> <li>▪ Admission from father or testimony of mother or other means of establishing relationship</li> </ul>	[Father's name] is presumed to be the father of [child] because the child lived with him and he held the child out as his biological child.
e. He and mother acknowledge paternity in Declaration of Parentage filed with Vital Statistics	<ul style="list-style-type: none"> <li>▪ Birth certificate</li> <li>▪ Declaration of Parentage (for children born before 8/1/95)</li> </ul>	[Father's name] is presumed to be the father of [child] because he and mother signed a Declaration of Parentage form which was filed with the Minnesota Department of Health, Division of Vital Statistics.	

Status of Father	Legal basis	Evidence Required for proof	Finding required in Order
<p><b>PRESUMED, cont.</b></p>	<p>f. Statistical probability of paternity of 99% or more based on blood or genetic testing. This presumption was repealed 7/1/2005. If blood or genetic tests indicate the likelihood of paternity of 99% or more, it now creates an evidentiary presumption that the man is the biological father. Minn. Stat. §257.62, Subd. 5(b).</p>	<ul style="list-style-type: none"> <li>• Birth certificate</li> <li>• Blood or genetic testing result</li> <li>• Note: With genetic testing creating only an evidentiary presumption, paternity must be adjudicated through Family Court or a ROP signed and filed with MN Dept of Health. Either then makes father adjudicated.</li> </ul>	<p>[Father's name] is alleged to be the biological father of [child] because according to blood or genetic testing, there is a statistical probability of paternity of 99% or greater.</p>
	<p>f. He and mother executed ROP filed with Vital Statistics and there is another presumed father.</p>	<ul style="list-style-type: none"> <li>• Birth certificate</li> <li>• Recognition of Parentage</li> </ul>	<ol style="list-style-type: none"> <li>1. [Father's name] is presumed to be the father of [child] because he and mother signed a Recognition of Parentage form which was filed with the Minnesota Department of Health, Division of Vital Statistics, and there is another presumed father.</li> <li>2. [Father #2] is also presumed to be the father of [child] because [basis for the presumption].</li> <li>3. If applicable, Finding that overcomes presumption of the one of the presumed fathers [see Vacated Fathers] <ul style="list-style-type: none"> <li>• Note: If TPR, terminate both fathers.</li> </ul> </li> </ol>
	<p>g. He and mother executed ROP filed with Vital Statistics and mother executed ROP with another man.</p>	<ul style="list-style-type: none"> <li>• Birth certificate</li> <li>• Both Recognitions of Parentage (for children born after 8/1/95)</li> </ul>	<ol style="list-style-type: none"> <li>1. [Father #1] and [Father #2] are both presumed to be the father of [child] because the mother and both men signed Recognitions of Parentage forms.</li> <li>2. If applicable, Finding that overcomes presumption of one of the presumed fathers [see Vacated Fathers] <ul style="list-style-type: none"> <li>• Note: If TPR, terminate both fathers</li> </ul> </li> </ol>
	<p>h. He and mother executed a ROP filed with Vital Statistics when one or both were under age 18.</p>	<ul style="list-style-type: none"> <li>• Birth certificate</li> <li>• Recognition of Parentage</li> <li>• or ROP re-executed after both parents are 18 or older</li> <li>• Note: minor parent ROP creates presumption of paternity but paternity should be adjudicated in Family Court.</li> </ul>	<p>[Father's name] is presumed to be the father of [child] because he and the mother signed a Recognition of Parentage which was filed with the Minnesota Department of Health, Division of Vital Statistics, when one [or both] of them was [were] under the age of eighteen.</p>

Status of Father	Legal basis	Evidence Required for proof	Finding required in Order
<p><b>VACATED FATHERS</b></p> <p>Term used to denote a paternity status that has been negated</p>	<p>Vacating a signed ROP Signed ROP vacated by Family Court</p>	<ul style="list-style-type: none"> <li>▪ Birth certificate</li> <li>▪ Family Court Order vacating the ROP</li> <li>▪ Note: this Order should instruct the MN Dept of Health to remove the name from the birth certificate.</li> </ul>	<p>[Father's name] signed a Recognition of Parentage but it was vacated on [date] in [county] District Court, State of [state].</p>
	<p>Signed ROP followed by revocation</p>	<ul style="list-style-type: none"> <li>▪ Birth certificate</li> <li>▪ ROP from MN Dept of Health AND</li> <li>▪ Notarized statement by mother or father filed with MN Dept of Health within 60 days of signing ROP</li> </ul>	<p>[Father's name] and mother signed a Recognition of Parentage but within 60 days it was revoked by mother [or father] by notarized writing filed with the MN Dept of Health.</p>
	<p>Rebutting a presumption of paternity of another man, per Minn. Stat. §257.55, Subd. 2.</p>		
	<p>Rebutted through legal action to declare the "nonexistence of the father-child relationship", which must be brought within three years of child's birth. Minn. Stat. §257.57.</p>	<ul style="list-style-type: none"> <li>▪ Birth certificate</li> <li>▪ Family Court judgment of non-paternity declaring the nonexistence of the father-child relationship presumed under Minn. Stat. §257.55</li> </ul>	<p>[Father's name] is no longer the presumed father of [child] pursuant to the judgment of non-paternity entered against [father's name] on [date] in [county] District Court, State of [state].</p>
	<p>Presumption rebutted by a court decree establishing paternity by another man</p>	<ul style="list-style-type: none"> <li>▪ Birth certificate</li> <li>▪ Paternity adjudication of another man as proof</li> </ul>	<p>[Father #1] is no longer the presumed father of [child] as [Father #2] was adjudicated the father of [child] on [date] in [county] District Court, State of [state].</p>
	<p>Presumption rebutted by divorce judgment declaring child not a child of the marriage</p>	<ul style="list-style-type: none"> <li>▪ Birth certificate</li> <li>▪ Divorce judgment that specifically names the child and finds the child is not a child of the marriage</li> </ul>	<p>[Father's name] is no longer the presumed father of [child] pursuant to the dissolution decree of the parties, which found that the child is not a child of this marriage.</p>
	<p>Presumption rebutted by Joinder to a ROP signed by both presumed and biological fathers</p>	<ul style="list-style-type: none"> <li>▪ Birth certificate</li> <li>▪ ROP signed by mother and both presumed and biological fathers, filed with the MN Dept of Health within one year of the child's birth</li> </ul>	<p>[Father #1] was presumed to be the father of [child] because he was married to the child's mother, but he signed Joinder to a Recognition of Parentage that renounced the presumption of his paternity and recognizes [Father #2] as the father of the child.</p>

Status of father	Legal basis	Evidence Required for proof	Finding required in Order
<b>ALLEGED</b>	<p>An individual claimed by the mother, or claimed by himself, to be the biological father of a child. Mn.R.Juv.P. 2.01(b).</p>		<ul style="list-style-type: none"> <li>Note: for TPR, <i>Conclusions of Law</i> include termination under Minn. Stat. §260C.301(b)(7)</li> <li>Use general and specific findings below</li> </ul>
	<p>General provision for all alleged fathers</p>		<p>These general findings are included for all alleged fathers, followed by applicable specific findings.</p>
	<p>Records search</p> <ul style="list-style-type: none"> <li>must be done for every child that has no adjudicated or presumed father</li> </ul>	<ul style="list-style-type: none"> <li>Birth Certificate showing no father</li> <li>Document from MN Dept Health certifying no father on birth certification, no ROP or DOP, no adjudication.</li> <li>Certification from Father's Adoption Registry that no one registered with them (for child born after 1/1/98) OR statement that no one has filed notice of intent to retain parental rights (for child born before 1/1/98)</li> </ul>	<p>There is no father on record for this child. The Minnesota Department of Health records show there is no father named on the child's birth certificate, no one who has signed a Recognition or Declaration of Parentage, no one who has been adjudicated the father of the child, and [no one who has registered with the Father's Adoption Registry for the child] OR [There is no one who has filed notice of intent to retain parental rights].</p> <p>Use applicable specific finding</p>
	<p>Specific provisions for alleged fathers, use as applicable</p> <p>Attempts to locate a named alleged father</p>	<p>If named alleged father has a last known address, Dept notifies Court Administration who sends notice to this address</p>	<p>[Father's name] is alleged to be the father of the child but he has failed to appear in these proceedings after receiving notice at his last known address.</p>
	<p>Alleged father who is named but excluded based upon blood or genetic testing.</p>	<p>If named alleged father cannot be located, Department must have documentation of reasonable efforts made to locate</p>	<p>[Father's name] is alleged to be the father of the child but his whereabouts is unknown and reasonable efforts by the Department have failed to locate him.</p>
	<p>Alleged father who appeared but never followed through on establishing paternity</p>	<p>Blood or genetic testing results to prove exclusion of alleged father</p>	<p>[Father's name] was alleged to be the father of the child but has been excluded as a possible father through blood or genetic testing that establishes a 0% likelihood of paternity.</p>
	<p>Alleged father who appeared, denied paternity and waived any further notice regarding the child.</p>	<p>Department must document that alleged father was provided the opportunity to establish paternity but failed to do so.</p>	<p>[Father's name] was alleged to be the father of the child and was provided the opportunity to establish paternity but failed to do so.</p>
		<ul style="list-style-type: none"> <li>Statement or testimony from alleged father</li> <li>Best practice is testimony on the record or affidavit from alleged father</li> </ul>	<p>[Father's name] is alleged to be the father of the child and he has appeared in this proceeding, denied paternity, and made an informed and knowing waiver of further notice in this and any subsequent proceeding, including a proceeding to terminate parental rights.</p>

Status of Father	Legal basis	Evidence Required for proof	Finding required in Order
<p><b>NO FATHER KNOWN</b></p>	<p>Department must document efforts made to question mother and other relatives to identify father</p> <p>Records search</p>	<ul style="list-style-type: none"> <li>▪ Birth certificate</li> <li>▪ Documentation of information provided by mother and other relatives</li> <li>▪ Documentation of referral to and request of information from Child Support Division and Parental Fee Unit</li> </ul> <p>AND</p> <ul style="list-style-type: none"> <li>▪ Document from MN Dept of Health certifying no father on birth certification, no ROP or DOP, no adjudication</li> <li>▪ Certification from Father's Adoption Registry that no one registered with them (for child born after 1/1/98) OR statement that no one has filed notice of intent to retain parental rights (for child born before 1/1/98)</li> </ul>	<p>There is no known father, pursuant to information provided to the Department by Respondent mother [or testimony from mother].</p> <ul style="list-style-type: none"> <li>▪ Note: for TPR, <i>Conclusions of Law</i> include termination under Minn. Stat. §260C.301(b)(7)</li> </ul> <p>There is no father on record for this child. The Minnesota Department of Health records show there is no father named on the child's birth certificate, no one who has signed a Recognition or Declaration of parentage, no one who has been adjudicated the father of the child, and [no one who has registered with the Father's Adoption Registry for the child] OR [There is no one who has filed notice of intent to retain parental rights].</p>
<p><b>PERSONS ENTITLED TO NOTICE OF ADOPTION PROCEEDING</b></p> <p><b>Minn. Stat. §269.49</b></p> <p>Any person on this list is a party to a TPR petition. Mn.R.Juv.P. 21.01, Subd. 3(b).</p>	<ul style="list-style-type: none"> <li>▪ Guardian of child</li> <li>▪ Parent of child whose rights have not been terminated</li> <li>▪ Name is on birth certificate</li> <li>▪ Has substantially supported the child</li> <li>▪ Married to mother within 325 days before the child's birth or within 10 days after child's birth</li> <li>▪ Openly living with child, mother or both</li> <li>▪ Adjudicated the child's parent</li> <li>▪ Filled paternity suit within 30 days of child's birth</li> <li>▪ Signed ROP or DOP</li> <li>▪ Registered with Father's Adoption Registry if child born after 1/1/98</li> <li>▪ Filed Notice of Intent to Retain Parental Rights if child born before 1/1/98</li> </ul>	<ul style="list-style-type: none"> <li>▪ Birth certificate</li> <li>▪ Marriage certificate or</li> <li>▪ One or more of the following: <ul style="list-style-type: none"> <li>▪ Certification from Father's Adoption Registry</li> <li>▪ Copy of Intent to Retain Parental Rights from MN Dept. of Health</li> <li>▪ Testimony of mother or father</li> <li>▪ Child support order and payment record from Parental Fee Unit or Child Support Division</li> </ul> </li> </ul>	<p>[Father's name] is entitled to "Notice of an Adoption Proceeding" and party status because [he is listed as father on the child's birth certificate]</p> <p>OR [he has substantially contributed to the support of the child]</p> <p>OR [he is openly living with the child's mother]</p> <p>OR [he registered with the Father's Adoption Registry]</p> <p>OR [he filed a Notice of Intent to Retain Parental Rights with the MN Dept. of Health].</p> <p><b>OR</b></p> <p>There is no one [who has registered with the Father's Adoption Registry for the child]</p> <p>OR [who has filed notice of intent to retain parental rights with the MN Dept. of Health]</p> <p>AND no one who has substantially contributed to the support of the child.</p>

**ISANTI COUNTY CHILDREN’S JUSTICE INITIATIVE  
Protocol Guidelines**

**Court Scheduling**

The Court administrator will reserve time on the calendar for various Child in need of Protection or Services (CHIPS) hearings, including Emergency Protective Care Hearings, Admit/Deny hearings, Pre-trial, Court Trial and Review Hearings. When possible, Emergency Protective Care Hearings will be set at 8:30 a.m. to allow the Court extra time to make all necessary findings, etc. per the Emergency Protective Care Hearing Checklist (see EPC hearing section).

The Court will schedule pre-trial conferences as soon as possible, but no later than 10 days prior to the setting of the court trial. The Court does require the appearances of parties and counsel at the hearing.

The Court should assure that all parties and participants are provided adequate notice to appear and participate in meaningful discussions from the outset, in order to arrive at a prompt disposition in the best interests of the child. Complete scheduling orders are to be prepared by Court Administration and issued by the judges in a timely manner. All parties and participants should immediately notify the Court Administrator in writing, with notice to all persons involved in the case (or their attorneys), of any conflict upon receipt of the scheduling order.

Judges should review all requests for continuances and limit continuances to those which Court finds to be in the best interests of the child.

The Court Administrator should assure that the court room deputies are prepared to schedule the next hearing in the court room, when possible, before concluding the hearing. All parties and participants should bring their calendars to court to immediately identify any conflicts with the date and time selected for the next hearing. All persons involved in the case will be directed to Court Administration to immediately receive written notice of the next hearing.

The Court Administrator and all parties and participants should give priority to child protection cases and comply with all statute and rule permanency timelines, in order to provide timely outcomes in the best interests of the child.

**Minnesota Statutes and Rules**

**Minnesota Statutes**

260C.151-Summons; Notice

260C.152-Service of Summons; Notice

260C.163-Hearing

260C.178-Emergency Removal Hearing

**Minnesota Rules of Juvenile Protection Procedure**

Rule 4-Time; Timeline

Rule 5-Continuances

Rule 6-Scheduling Order

Rules 30.01; 34.02; 36.01; 39.02; 41.02; 42.01-Timing of Hearing

Updated 12/11

# ISANTI COUNTY CHILDREN'S JUSTICE INITIATIVE

## Protocol Guidelines

### Children in Court

Children who are physically healthy should attend the first court hearing to allow judges and other parties and participants to meet them. However, the social worker and, when available, the guardian ad litem may keep a child from a hearing if they determine that it is in the best interests of a child not to attend a court hearing. They must inform the judge of the reasons why a child is not in attendance at the first hearing.

The custodian of the child shall be responsible for transportation to court. The child's foster parent should be encouraged to accompany the child. If the foster parent is unable to attend or remain at a hearing, then the guardian ad litem or social worker shall inform the foster parent of what transpired at the hearing. When a child is in emergency protective or protective care, the responsible social services agency is responsible for ensuring the child's presence in court. If the child is in the custody of the responsible social services agency in out-of-home placement, the agency should transport the child to the hearing. If the agency fails to make arrangements for the child to attend the hearing, the child's attorney or guardian ad litem may need to ask for a continuance and for an order requiring the child to be brought to the next hearing.

When a child attends a court hearing, a foster parent or other appropriate guardian should be encouraged and allowed to accompany the child to the court proceeding. A younger child may spend a limited time in the courtroom and be excused before discussion of facts in the case. The child will be supervised in a child-friendly waiting room by an appropriate care provider.

When a child attends a hearing, the judge should acknowledge the child and address him or her. The judge must explain the purpose of the hearing, explain the child's rights, determine appropriate status as party or participant and representation by counsel, if appropriate.

Parties and participants may provide input regarding the judge's decision as to whether a child should remain or attend subsequent hearings. The guardian ad litem and social worker shall meet with the child in advance of the hearing to assure that the child's wishes and concerns regarding attendance are known and communicated to the Court, as appropriate.

If the child is represented by counsel, the child must attend hearings, unless the judge specifically orders otherwise, after hearing from the child's attorney.

The judge shall enter an order on the record, and include a statement in the Scheduling Order regarding the child's attendance at future hearings.

#### **Minnesota Statutes and Rules**

##### **Minnesota Statutes**

260C.163, Subd. 2-Right to Participate

260C.163, Subd. 6-Examination of Child

260C.163, Subd. 7-Waiving Presence of Child

260C.163, Subd. 8-Rights of Parties at Hearing

**Minnesota Rules of Juvenile Protection Procedure**

Rule 22-Participants

Rule 23-Intervention

Rule 25-Right to Representation, Appointment of Counsel

Rule 27-Access to Hearings

2/12

**ISANTI COUNTY CHILDREN’S JUSTICE INITIATIVE  
Protocol Guidelines**

**Non-Emergency Petition Process**

**Court Filings and Notices**

A Child in need of Protection or Services (CHIPS) petition will be filed when Isanti County Family Services (ICFS) and Isanti County Attorney agrees it is in the best interests of the child for ICFS to intervene to request care, custody and control of the child, or to ensure services are provided, for without such services, the child would most likely be maltreated.

The process of initiating a CHIPS court file begins when the ICFS social worker writes a report to the County Attorney who then uses the report to write the CHIPS petition. The County Attorney will file the CHIPS petition with Court Administration. Court administration will then open a court file and set a date for an Admit/Deny Hearing not less than 10 days after the parties have been served with the petition.

Notices of the Admit/Deny Hearing will be provided by Court Administration to all parties. Court Administration will contact the public defender for children age 10 and over. Court Administration will attempt to appoint a Guardian ad Litem (GAL) prior to the hearing.

Once a GAL is appointed, the GAL will make an effort to contact the child and other parties prior to a hearing.

**Resources Provided to Parents**

Each parent will be provided a “blue folder” by an Isanti County Family Services (ICFS) social worker when their child is taken into custody. The blue folder will include the following: *When your child is removed from your home* pamphlet, *Parental Fees* pamphlet, *Families’ Guide to Child Protection* pamphlet, *Child Protection Notice of Privacy Practices*, *Services in Isanti County* sheet, *Mental Health Resource Guide of Isanti County*, concurrent/permanency disclosure statement, phone contact with children guidelines, visitation with children guidelines, outline for maternal and paternal relative information, and *Background and Health History* document. This is not an exhaustive list of documents and resources provided to the parent.

**Minnesota Statutes and Rules**

**Minnesota Statutes**

260C.007 Definitions

260C.163, Subd. 5 – Guardian ad Litem

260C.175 – Taking Child into Custody

260C.176 – Release or Detention

260C.181 – Place of Temporary Custody; Shelter Care Facility

260C.212, Subd. 5 – Children in Placement

260.751 – 260.835 – MN Indian Family Preservation Act

**MN Rules of Juvenile Protection Procedure**

Rule 2 -- Definitions

Rule 26 --- Guardian ad Litem

12/11

**ISANTI COUNTY CHILDREN’S JUSTICE INITIATIVE  
Protocol Guidelines**

**Legal Representation for Parties/Participants**

Parties, participants and juveniles (age 10 and over) have the right to be represented by an attorney in all Children in Need of Protection or Services (CHIPS) cases initiated by Isanti County Family Services.

Per Isanti County policy-children 10 years of age or older shall be considered parties in a CHIPS matter. For this reason, Isanti County will appoint an attorney from the public defender’s office for all children ages 10 or over without requiring completion of a financial application. Any such appointment of counsel for the child shall occur before the Emergency Protective Care hearing or the Admit/Deny hearing whichever comes first. Court Administration shall contact the child’s attorney as soon as said hearing is set. All attorneys should appear at the courthouse to meet with clients 15 minutes prior to the time of the hearing.

The Court may appoint an attorney for the child’s parent, the child’s legal custodian, Indian custodian of an Indian child or any other party/participant as deemed appropriate upon the completion of an application for legal assistance.

**Minnesota Statutes and Rules**

**Minnesota Statutes**

260C.163, Subdivision 3-Appointment of Counsel

**Minnesota Rules of Juvenile Protection Procedure**

Rule 25-Right to Representation; Appointment of Counsel

**ISANTI COUNTY CHILDREN'S JUSTICE INITIATIVE**  
**Protocol Guidelines**

**Guardian ad Litem**

**Appointment of the Guardian ad Litem**

- In every child in need of protection or services matter, termination of parental rights matter, and other permanent placement matter, the Court must appoint a Guardian ad Litem to assess and protect the interests of the minor child.
- The appointment of a Guardian ad Litem should occur prior to the Emergency Protective Care Hearing or the Admit-Deny Hearing, whichever occurs first.
- If the Court has appointed someone to serve as a Guardian ad Litem in a child in need of protection or services matter, the court is not required to issue a new order reappointing the same person to serve in that role in a termination of parental rights or permanent placement matter. A new order is only required if a new person will be serving as the Guardian ad Litem in the permanency proceedings.
- A Guardian ad Litem appointed on a case shall continue serving until (1) the child returns home and the juvenile protection matter is terminated; (2) physical and legal custody over the child is transferred to a relative and the juvenile protection matter is terminated; or (3) an adoption decree is entered (following a termination of parental rights). Where the disposition is long-term foster care, the Guardian ad Litem shall continue serving as a party while the child is in foster care.

**Responsibilities of the Guardian ad Litem**

The responsibilities of the Guardian ad Litem include the following:

- Conducting an independent investigation to determine the facts relevant to the situation of the child and family. That investigation must include reviewing relevant documents; meeting with and observing the child in the home setting and considering the child's wishes; and interviewing parents, caregivers, and others with knowledge relevant to the case.
- Advocating for the child's best interests by participating in appropriate aspects of the case and by advocating for appropriate community services when necessary.
- Maintaining the confidentiality of information related to a case, with the exception of sharing information (as permitted by law) to promote cooperative solutions that are in the best interests of the child.
- Presenting written reports on the child's best interests that include conclusions and recommendations and the facts on which they are based.

## Miscellaneous Considerations Relating to Guardians ad Litem

- *Representing Multiple Children.* A Guardian ad Litem may serve in that role for more than one child in a proceeding.
- *Guardian ad Litem as Petitioner.* In cases where a Guardian ad Litem has filed the petition initiating a child protection proceeding, that person should not be appointed Guardian ad Litem for the child.
- *Cultural Considerations.* In cases involving an Indian or minority child, the Court should consider whether there is a person available to serve as Guardian ad Litem who is of the same racial or ethnic heritage of the child. If such a person is not available, the Court should consider whether someone is available who knows and appreciates the child's racial or ethnic heritage.
- *Guardians ad Litem and Attorneys.* Except in cases where the child is alleged to have been abused or neglected, the court may waive the appointment of a Guardian ad Litem whenever the child is represented by counsel and the Court is satisfied that the interests of the child are protected.
- *Guardians ad Litem for Parents.* A Guardian ad Litem may be appointed for a parent who is a party or a legal custodian if the Court determines either that the parent or custodian is unable to assist counsel or understand the nature of the proceedings, or if the parent or legal custodian is under eighteen years of age and is without a parent or legal custodian, or if the minor parent or legal custodian's interests are in conflict with his or her parent or legal custodian.
- *Background Checks.* The Court should maintain a background study for each Guardian ad Litem.

### MN Statutes and Rules

MS 260C.163, subdivision 5

MN Rule 26 – Guardian ad Litem

## ISANTI COUNTY CHILDREN'S JUSTICE INITIATIVE

### Protocol Guidelines

#### **Admit/Deny Hearing (ADH)**

An Admit/Deny hearing shall be held within ten days of the date of an emergency protective care hearing when the child was removed from the home. When the child is not removed from home by court order, an Admit/Deny hearing shall be held no sooner than three days and no later than twenty days after the parties have been served with the summons and petition.

An Admit/Deny hearing may be combined with an Emergency Protective Care hearing if agreed by the parties. However, there is often too little information available at the first hearing to allow parents and children to make a meaningful decision with the advice of counsel.

An Admit/Deny hearing may be the first appearance in court for the parents and child(ren) when there is no emergency protective care placement. All preliminary proceedings described for an EPC hearing (**page 22**) must be followed. If an interpreter is needed to facilitate communication, all parties and counsel must arrive ½ hour prior to the hearing.

Court Administration shall notify parties of their right to a court-appointed attorney. Stakeholders should encourage parents, applying for a court-appointed attorney, to do so at least 5 days before the Admit/Deny hearing.

The Judge must follow rules and the Minnesota Judges Juvenile Protection Benchbook checklist to assure that a thorough record is made. They include: notice to parties and participants; Indian Child Welfare Act determination; accuracy of the Petition; prima facie case of CHIPS; temporary custody and parenting time of the child; address services to begin immediately; discuss case plan development; address child attendance at hearing; if custody of the child is transferred, make reasonable/active efforts and welfare of the child findings. The Judge must make clear statements of the Court's findings and order on the record.

If the custodial parent(s) or legal custodian enters an admission, it must be on the record and under oath. The questions must require the party to acknowledge an understanding of their rights and to admit facts sufficient to support the grounds alleged in the petition, and to justify the need for the services required by the case plan or agreement.

A proposed written order in all CHIPS cases is to be prepared by the County Attorney as soon as possible, and no later than ten days following the hearing.

**Best practice would be to give oral notice of the date and time of the next hearing and for the Judge to direct all parties/participants to go to Court Administration immediately following the hearing to get written notice.**

If a denial is entered, the parties must meet to confer regarding discovery as soon as possible after the hearing. The public defender and GAL shall attempt to schedule meetings with the parents and child(ren), as soon as possible. All appropriate parties and participants shall cooperate to schedule a meeting for the development of a case plan, as ordered by the Court. The social worker and the GAL shall cooperate in a manner that will enable each to fulfill the separate and distinct roles and responsibilities required by statutes and rules.

A Scheduling Order shall be completed at the admit/deny hearing or within fifteen days of the admit/deny hearing.

**Minnesota Statutes and Rules**

Minnesota Statutes

260C.163-Hearing

**Minnesota Rules of Juvenile Protection Proceedings**

Rule 6.02-Scheduling Order

Rule 34-Admit/Deny Hearing

Rule 25-Admission or Denial

Revised 11/21/11

ISANTI COUNTY CHILDREN'S JUSTICE INITIATIVE  
Protocol Guidelines

**Discovery/Disclosure**

A party to a child protection matter has a right to access certain categories of information about their case, without having to get a court order. That information falls in three general categories, which are summarized below.

**Documents and Tangible Items**

Isanti County Family Services (ICFS) is required to allow access to information and items within its control which relate to the case, subject to the exceptions addressed below. This includes allowing the parties to inspect and copy any relevant documents, recorded statements, or other tangible items. Parties other than ICFS also have discovery obligations, and are similarly required to disclose, and permit inspection of, any information or items which the party intends to discuss at trial.

**Witnesses**

All parties are required to disclose to all other parties the names and addresses of anyone they intend to call as witnesses at trial. All parties are also required to allow all other parties to inspect or copy any written or recorded statements of those witnesses that are relevant to the case.

**Expert Witnesses**

All parties are required to disclose to all other parties the names and addresses of anyone they intend to call as an expert witness at trial, along with the subject matter that the expert will testify about, and a summary of the grounds for the expert's opinion.

**Additional Categories of Information**

In addition, there are other categories of information that parties can gain access to by filing a written motion and obtaining an order from the court, pursuant to Rule 17.04. Those categories include:

*Physical and Mental Examinations.* If the physical or mental condition of a party is in controversy, the court may order the party to submit to a physical or mental examination by a licensed professional of the moving party's choice. This could come up if, for example, there were substantial questions about a parent's mental health, and he or she refused to undergo any medical evaluations.

*Depositions.* A deposition may be taken by agreement of the parties, or may be ordered by the court. In order for the court to order a deposition, the requesting party must meet one of the specific criteria listed in Rule 17.04(b)(2). Though this is unlikely to come up often, an example may be a situation where a key witness is gravely ill, and may not survive until the trial.

*Reports or Examinations and Tests.* Upon motion and order of the court, any party is required to disclose – and permit the county attorney, attorney for petitioner, and other parties to inspect and copy any results or reports of – physical or mental examinations, chemical dependency assessments and treatment records, scientific tests, experiments, and comparisons relating to the case. These materials will typically be disclosed

to the other parties in conjunction with the rest of the discovery, after the County Attorney's Office has obtained a protective order limiting their disclosure. Accordingly, ICFS should include any such assessments in the discovery materials that it provides to the County Attorney's Office.

*Experts.* Facts and opinions held by experts that are otherwise available under the rules, and developed in anticipation of litigation or for trial, may be obtained by court order. This is not an issue that is likely to arise often, and if an attorney contends that he or she has not received adequate disclosures of the information known to an expert witness who is involved in the County's case, the Social Worker should consult with the County Attorney's Office.

### **Disclosure of Sensitive Materials**

There are several other categories of information that fall under additional disclosure restrictions, and should be dealt with carefully.

- The disclosure of videotaped statements of alleged victims of child abuse, or of names or identifying information of mandated reporters, are governed by more restrictive rules, and should not be disclosed without consulting the County Attorney's Office.
- Privileged communications between an attorney and his or her clients are not discoverable. That includes, in particular, discussions between the Social Worker and the County Attorney's Office about a case's strengths or weaknesses.
- In cases where the discovery includes sensitive materials – such as medical records, or records concerning treatment for drug or alcohol addiction – the Social Worker should provide those records to the County Attorney's Office with discovery, and the County Attorney's Office should seek a protective order limiting the disclosure of those materials before disclosing them to other parties.

### **Timeline for Discovery**

Once a request for discovery has been made, unless a court order provides otherwise all materials and information that a party is entitled to must be disclosed within fourteen days of the request.

### **ICFS Best Practices**

In order to facilitate the delivery of discovery, ICFS should provide the County Attorney's Office with discovery no later than ten days prior to the Pretrial Hearing. If a motion is made seeking discovery at an earlier date, the County Attorney's Office should communicate the request to ICFS as soon as possible to discuss a timetable for delivery. In all cases, before ICFS begins the actual work of preparing the discovery materials to send to the County Attorney's Office, they should discuss the case with the County Attorney's Office, to find out if there is an imminent settlement.

### **General Disclosure Issues**

In addition to the rules discussed above, access to information held by ICFS is generally governed by the Minnesota Government Data Practices Act. Requests for information outside the context of litigation and discovery should be handled pursuant to ICFS's internal procedures for data practices requests, or should be discussed with the County Attorney's Office.

**MN Statutes and Rules**

**MN 13.46 – Minnesota Government Data Practices Act Provisions on Welfare Data**

**MN 260C.171 – Attorney Access to Records**

**MN 611A.90 – Videotaped Statements of Alleged Victims of Child Abuse**

**MN 626.556, subdivision 11 – Mandated Reporter**

**MN Rule 17**

**ISANTI COUNTY CHILDREN'S JUSTICE INITIATIVE**  
**Protocol Guidelines**

**Pre-trial**

A pre-trial shall be held at least 10 days prior to the trial. The Judge shall address issues under Rule 36.02: confirm notice and counsel; settlement of issues; issues for trial; stipulations or admissions; presence of child at trial; completion of discovery; pretrial motions; witness and exhibit lists; date and length of trial.

Following the hearing, parties and counsel should confer to schedule any necessary meetings to comply with the Court's directive.

**Minnesota Statutes and Rules**

Minnesota Statutes

260C.163-Hearing

**Minnesota Rules of Juvenile Protection Proceedings**

Rule 36-Pretrial Hearing

Rule 15-Admit/Deny Hearing

Rule 17-Admission or Denial

Rule 19-Settlement

11/21/11

**ISANTI COUNTY CHILDREN'S JUSTICE INITIATIVE  
Protocol Guidelines**

**Court Trial**

**Children in Need of Protection or Supervision**

In all Children in Need of Protection or Services (CHIPS) matters a trial must commence within sixty days of the Emergency Protective Care Hearing or Admit/Deny Hearing - whichever is earlier.

The Court may continue a trial and must make specific findings as to the best interests of the child(ren) whenever a trial is continued or adjourned for more than one week. The trial must be completed within ninety days of the denial.

When criminal charges are filed against a parent, the County Attorney shall determine whether the criminal or the juvenile court matter proceeds to trial first.

CHIPS trials shall be given high priority, in recognition of the firm timelines for permanency required by federal and state laws. Parents and child(ren) require a just determination of all issues as soon as possible.

Parties and participants must cooperate with Court Administration to provide accurate information regarding the time required for a CHIPS trial so that adequate time can be scheduled.

Trials should not be continued unless it is found to be in the best interests of the child(ren) or absolutely necessary to protect the rights of a party.

The child(ren) should attend the trial as ordered by the Court at the Pre-Trial Hearing. The Judge may determine whether the child(ren) should remain for all of the trial, taking into account all relevant factors. The parties and participants shall provide the Judge with appropriate information regarding the child(ren)'s presence at the trial.

All parties and participants must comply with the time requirements of the Rules of Procedure for submitting reports, written arguments and issuing Findings of Fact, Conclusions of Law and Order.

The child(ren)'s custodian, Guardian Ad Litem and child(ren)'s attorney, if appointed, shall inform the child(ren) of the outcome of the trial and explain the Judge's findings in an understandable manner.

If the child is adjudicated to be in need of protection or services, a Disposition Hearing shall be scheduled within 10 days as required by the rules.

**Permanency Proceeding**

For matters involving permanency proceedings, the trial must commence within 60 days of the Admit/Deny hearing. The Court may continue a permanency trial so long as the permanency trial concludes within 90 days of a denial to the petition. As in the case of the CHIPS trial, the continuation may not continue for more than one week unless the court makes a specific finding continuation is in the best interests of the child. Also,

when there is a criminal matter simultaneously as the permanency matter, the county attorney shall determine which matter shall proceed to trial first.

**Minnesota Statutes and Rules**

Minnesota Statutes

260C.163-Hearing

260C.193. Subd. 1-Dismissal of Petition

260C.509 Trial

**Minnesota Rules of Juvenile Protection Proceedings**

Rule 39-Trial

Rule 40-Adjudication

Rule 18-Default

Updated 12/11/12

# ISANTI COUNTY CHILDREN'S JUSTICE INITIATIVE

## Protocol Guidelines

### Case Plans

#### Out of Home Placement Plan

Within 30 days of placement, whether by court order or a voluntary placement agreement (VPA), Isanti County Family Services (ICFS) will have a written out of home placement plan (OHPP) that outlines measurable goals and tasks for each parent, Social Worker, foster parent and child, when appropriate. ICFS will engage and elicit information to design the plan with the parents and child, when appropriate, and signed by all team members. The plan will cover the following:

- Problems or conditions that lead to placement.
- How the foster placement meets the needs of the child.
- Reasonable efforts to help alleviate the reasons for foster care, services provided to the family.
- An explanation of services that were not provided but requested by the parents.
- Visitation schedule between the child and parents and siblings is not placed together.
- Health records of the child.
- Efforts to ensure the continuity of the child's health care.
- Educational records.
- Efforts to ensure the child's educational stability.
- Independent living Plan (ILP) for a child 16 years of age or older in long term foster care or who is free for adoption.
- **For child/youth in voluntary foster care per MN Statute 260D:** include diagnostic and assessment information, specific services that meet the mental health care needs of the child and treatment outcomes.

Parents, whose child has been removed for child protection purposes, are provided a brochure, *When Your Child is Removed from Your Home*, which provides the parent information about their right to have an attorney. The parent's attorney can review the plan prior to the parent signing the plan. Copies of the signed plan will be submitted by ICFS to the County Attorney for dissemination to the Court and all parties.

#### Independent Living Plan (ILP)

For youth ages 16 and older and who are in long term foster care or who are free for adoption, an ILP is attached to the OHPP. The ILP includes, but is not limited to, the following areas:

- Education, vocation, or employment planning.
- Health care planning and medical coverage.
- Transportation including where appropriate, assisting the youth obtaining a driver's license.
- Money management.
- Planning for housing.
- Social and recreation skills.
- Establishing and maintaining connections with the youth's family and community.
- **For youth in voluntary foster care for treatment under chapter 260D:** diagnostic and assessment information, services that can meet the mental health needs of the youth and treatment outcomes.

### **90 Day Transition Plan**

90 days before a youth will be discharged from foster care at age 18 or older, a transition plan will be completed that will include the following:

- Where the youth will live after leaving foster care.
- What health coverage the youth will have, what providers are part of that health network, and any upcoming medical appointments.
- The youth's educational plans.
- Identification of mentors and supportive adults.
- The youth's work force supports and employment services.
- Community resources for the youth with phone numbers.
- Information about health care directives, power of attorney, proxy, etc.

The 90 Day Transition Plan will be developed with the youth and as detailed as the youth requests.

### **MN Statutes and Rules**

MN Statute 260C.212

MN Statute 260C.178, Subd 7

**ISANTI COUNTY CHILDREN'S JUSTICE INITIATIVE  
Protocol Guidelines**

**Court Reports**

**Reports by County Social Workers**

Periodic written reports shall be submitted to the court that outline the progress the parents and children have made in completing the tasks and goals outlined in the case plan (whether that be a child protection plan, out of home placement plan or children's mental health case plan). The reports shall also include what efforts Isanti County Family Services (ICFS) has made in assisting the family to eliminate the cause for child protection and court involvement as well as efforts ICFS has made to reunite the family. The reports shall also include the agency's recommendations regarding the best interests of the child. A face sheet briefly outlining the report will be attached to all reports (see attached.)

The reports will be signed by the Social Worker with a statement certifying the content is true based upon personal observation, first-hand knowledge, or information and belief.

For youth leaving foster care the Independent Living Summary will be attached to the review hearing report (see attached.)

Reports are to be submitted to Isanti County Attorney's Office who will submit it to Court Administration so that all parties are served no later than five days prior to the hearing.

**Reports by County Workers and Guardian ad Litem**

The Guardian ad litem (GAL) appointed to protect the best interests of the child and upon completing an independent investigation shall prepare a written report that includes conclusions and recommendations based upon the facts obtained during the investigation. Throughout the judicial proceedings, the GAL shall monitor the child's best interests and present those interests in periodic reports to court.

Reports are to be submitted to Isanti County Court Administration so that all parties are served no later than five business days prior to the hearing.

**Emergency Protective Care Hearing Reports**

Reports that will be presented at the Emergency Protective Care Hearing shall be allowed for inspection by all parties prior to the hearing.

**Six Month Permanency Progress Reports for Children 8 and Under**

Reports are to be submitted to the County Attorney's Office who will submit to Court Administration so that all parties are served no later than 10 days prior to hearing.

**Pre-Disposition Reports**

The Court may order a pre-disposition report. When this occurs the report shall be submitted to Isanti County Administration at least 48 hours prior to the disposition hearing.

### **Reports from Other Persons/Agencies**

The Judge may take into consideration any reports by other persons or agencies that are deemed material in making a disposition in a case.

### **MN Statutes and Rules**

#### **MN Statutes**

260C.0163, Subd. 5 – Hearing; Guardians ad Litem

260D.193, Subd. 2 – Disposition: Consideration of reports

#### **Minnesota Rules of Juvenile Protection Procedure**

Rule 30.03 – EPC Hearing; Inspection of Reports

Rule 38 Reports to Court

Rule 41.03 – Disposition; Pre-Disposition Reports

2/12

**REPORT TO COURT**  
**Review Hearing Face Sheet**

In the Matter of the Child(ren) of:	District Court File No: Court File No.	Date:
<b>RECOMMENDATIONS:</b>		
<b>TASKS COMPLETED:</b>		
<b>TASKS TO BE COMPLETED:</b>		
<b>ADDITIONAL INFORMATION:</b>		

## Independent Living Plan Summary

In the Matter of the Child(ren) of:	District Court File No:	Date:

Date youth was provided Notice of Foster Care Benefits up to Age 21: \_\_\_\_\_

Has youth obtained or will obtain high school diploma or its equivalent? Yes    No

Has youth completed driver's education course or demonstrated ability to use public transportation? Yes    No

Youth is employed or participating in workforce supports? Yes    No

Youth is enrolled in postsecondary education? Yes    No

Date youth applied for and obtained postsecondary education financial aid \_\_\_\_\_

Youth was provided health care coverage and health care providers to meet physical and mental health needs? Yes    No

Youth was provided information on Health Care Directive? Yes    No

Did youth apply for and obtain disability income assistance, if eligible? Yes    No

Does youth have housing that is not a homeless shelter and an alternative housing plan? Yes    No

Does youth have sufficient funds to pay for the first month's rent and damage deposit? Yes    No

If male, has youth registered for the Selective Service? Yes    No

Does youth have list of adults who are connected to the youth? Yes    No

Date child was provided the following documents: \_\_\_\_\_

Social Security card; birth certificate state identification card or driver's license; contact information for siblings (if they are in care and appropriate); contact list of youth's medical, dental and mental health providers; youth's social and medical history; medical records, dental records, greencard or school visa; school records and education report.

Date youth was provided contact information for crisis situations: \_\_\_\_\_

**ISANTI COUNTY CHILDREN'S JUSTICE INITIATIVE**  
**Protocol Guidelines**

**Disposition Hearing**

Disposition may occur immediately (but not later than 10 days) after an admission is entered by all appropriate parties or immediately after the Court finds the child(ren) to be in need of protection or services following trial. It is in the best interests of the child(ren) and family to begin services as soon as possible. The Court must assure that the parents and child(ren) understand that they can request a separate Disposition Hearing.

Isanti County Family Services should be prepared to recommend specific services and complete a Case Plan, as soon as possible and not later than required by Rule 37.

The recommendations should be described orally on the record in sufficient detail to make the nature and terms of the recommendations clear. In presenting the recommendations, the parties should identify how the disposition meets the needs of the child(ren), what alternatives have been considered and why the recommended disposition is in the best interests of the child(ren).

If the child(ren)'s custody is transferred to ICFS for placement, then the parties should detail the reasonable or active efforts that have been made by ICFS to avoid the out-of-home placement. The parties should also describe why return of the child(ren) to a parent or custodian would be contrary to the welfare of the child(ren).

The recommended disposition should also provide for parenting time between the child and parents of legal custodian and sibling visitation, where appropriate.

At the hearing, the Judge should request comment from the parties and participants and receive their commitment to comply with the requirements of the service plan.

In Court, on the record, the Judge should state the legal basis for adjudication of the child(ren) and identify the specific facts that support the disposition ordered. The Court may identify, by reference, specific written documents which contain the facts which support the findings of best interests of the child(ren), alternative dispositions considered, reasonable or active efforts to avoid out-of-home placement and that return is contrary to the welfare of the child(ren).

The Court shall order the County Attorney, or prevailing party, to provide a Disposition Order, as soon as possible and no later than 10 days following the Disposition Hearing.

On the record and in written order, the Court should set a date for a review hearing. When appropriate and in the best interests of the child(ren), review hearings may be held sooner and more frequently than required by statutes and rules.

## **MN Statutes and Rules**

### **Minnesota Statutes**

**260C.193-Disposition; General Provisions**

**260C.201-Disposition; CHIPS**

**260C.205-Dispositions; Voluntary Foster Care Placement**

### **Minnesota Rules of Juvenile Protection Proceedings**

**Rule 41-Disposition**

**Rule 19-Settlement**

**Rule 22.02-Rights of Participants**

**Rule 37-Case and Out-of-Home Placement Plans**

Updated 4/18/21

# ISANTI COUNTY CHILDREN'S JUSTICE INITIATIVE

## Protocol Guidelines

### Review Hearings

Review Hearings make up a significant share of the court hearings that occur in Children in Need of Protection or Services (CHIPS) proceedings. Various aspects of the most common types of review hearings are addressed below.

#### Timing of Review Hearings

- **Review of Diligent Efforts.** No later than 90 days after a child is placed out of the home, the Court must conduct a review hearing to determine whether Isanti County Family Services has made diligent efforts to identify and search for relatives, and to assess whether Isanti County Family Services has selected a home that meets the needs of the child. Often the most practical way to handle this requirement will be for the Court to schedule the first disposition review hearing for 90 days after the child was placed out of the home, and for the Court to handle both the review of diligent efforts and the review of disposition in that hearing.
- **Permanency Progress Review Hearing.** When a child is placed outside of the home, the Court must hold a Permanency Progress Review Hearing within six months of the child's placement. At this hearing, the Court may decide whether to permit additional time for reunification, or whether to order the petitioner to file a permanency petition. A more detailed explanation of this hearing is given in Rule 42.03 of the Rules of Juvenile Protection Procedure, and as the time for this hearing approaches, the Social Worker should consult with the County Attorney's Office about the report that Isanti County Family Services will be submitting in advance of the hearing, and about the position that Isanti County Family Services will be taking at the hearing.
- **Care, Custody, and Control with ICFS.** When the disposition in a CHIPS proceeding is an award of custody to Isanti County Family Services (ICFS), the court must review the disposition in court at least every 90 days. Any party or the County Attorney can request that a review hearing occur earlier.
- **Protective Supervision by ICFS.** When the disposition in a CHIPS proceeding is an award of protective supervision to Isanti County Family Services (ICFS), the court must review the disposition in court at least every six months.
- **Transfer of Permanent Legal and Physical Custody to a Relative.** When the court has ordered a transfer of permanent legal and physical custody to a relative, the court may retain jurisdiction over the case and conduct review hearings at a frequency that it determines is in the child's best interests, to assess whether the child is receiving appropriate services, and whether any conditions ordered by the court are being followed.
- **Termination of Parental Rights.** When the court has ordered a termination of parental rights, it must schedule a review hearing 90 days from the date that the termination order is filed, and at least every 90 days thereafter, to review progress toward the finalization of an adoption.
- **Permanent Custody to the Agency.** When the court has ordered a child into the permanent custody of the agency, it must review the matter in court at least every twelve months, to consider whether this disposition continues to be the permanent plan for the child.
- **Temporary Legal Custody to the Agency.** When a court has ordered a child into the temporary legal custody of the agency, it must order in-court review hearings at intervals as will serve the child's best

interests, not to exceed a total of twelve months after the child is ordered into temporary legal custody of the agency.

- **Voluntary Placement.** After the court has conducted a permanency review hearing under Minnesota Statutes section 260D.07, and determined that a voluntary placement agreement is in the best interest of a child with an emotional or a developmental disability in a 14-month permanency hearing, the court must review the child's placement at least every twelve months.

#### **General Considerations in Review Hearings**

- The full range of what will be dealt with in a review hearing depends on the type of review hearing. However, there are several general purposes that are common to almost all review hearings.
  - Most Review Hearings should involve discussion of the goals identified in the court-ordered Case Plans, and the progress that the parties have made in accomplishing those goals. Information about that progress is typically conveyed to the Court in Court Reports. The timing and content of those reports is addressed in a separate section of this manual.
  - Review Hearings also are the appropriate forum for parties to request modifications to their Case Plans or changes in placement that they believe are warranted by the circumstances.
  - The Court and parties should seek to ensure in each Review Hearing that the parents know what they need to do in order to have their children return home.
  - In each review hearing, the Court should assess whether Isanti County Family Services (ICFS) has exercised reasonable efforts to eliminate the underlying circumstances that led to ICFS's involvement, or – in cases where reunification is no longer possible – whether ICFS is exercising reasonable efforts to finalize a permanent plan for the child.
  - The Court should also assess whether the child's placement continues to be in the child's best interests.
  - Before the hearing is concluded, the Court should schedule the next review hearing.

#### **MN Statutes and Rules**

MN Rule 41.06 – Hearings to Review Disposition

MN Rule 42 – Permanent Placement and Termination of Parental Rights Matters; Post-Permanency Review Requirements

MN Rule 43 – Review of Children in Voluntary Foster Care for Treatment

MN Rule 44 – Review of Voluntary Placement Matters

MN Statute 260C.193, Subdivision 3

1/29/13

# ISANTI COUNTY CHILDREN'S JUSTICE INITIATIVE PROTOCOL GUIDELINES

## **Trial Home Visit**

The use of trial home visit is utilized to reunify the child with the parent or legal custodial as soon as is reasonable and in a manner consistent with assuring the safety of the child. The purpose is to maintain legal custody with Isanti county Family Services (ICFS) and to allow for close monitoring and prompt action to protect the child.

The trial home visit must be approved by the court and shall not exceed six months in duration. The time a child is placed under a trial home visit does count toward the allowed permanency timelines. ICFS retains legal custody of the child during the trial home visit. The social worker or the guardian ad litem (GAL) may interview the child in the parent's home, childcare, school setting or other settings without the parent's permission. ICFS will continue to have the authority to access information pursuant to Minnesota Statute 260C.208.

ICFS will continue to provide appropriate services to the child and family during the trial home visit. The agency will ensure that the social worker or other service provider has contact with the child at least weekly. The GAL shall also have frequent contact with the child. The social worker will meet with the family to discuss and determine the plan to ensure the child's safety and well-being, including any specific activities that must be completed. The out of home placement plan (OHPP) will be utilized to document the trial home visit plan/expectations.

The trial home visit may be terminated at any time by ICFS to provide for the protection and safety of the child. If this should occur, ICFS will provide a memo to the County Attorney's office. The County Attorney's office will notify the court of the termination of the trial home visit and request a hearing be set to review the matter. If a trial home visit is terminated, every effort will be made to return the child to the foster home in which the child resided prior to the trial home visit, or to a relative home, or to another permanency option. The Court Administrator's office shall be notified of the child's new placement arrangement.

### **Minnesota Statutes and Rules:**

Minnesota Statutes (M.S.)

260C.201, Subdivision 1(3) – Disposition: Trial Home Visit

260C.312 (b) – Disposition, Parental Rights Not Terminated

Minnesota Rules of Juvenile Protection Procedure (MRJPP)

Rule 41.06, Subdivision 2 – Disposition Review Procedures; Trial Home Visit

Updated: 04/20/2012

**ISANTI COUNTY CHILDREN’S JUSTICE INITIATIVE**  
**Protocol Guidelines**

**Permanency**

**Permanency**

To provide each child safety and well-being in a permanent home, in a timely manner in accordance with the permanency timelines established in Minnesota Statutes and Rules. The primary goal will be to reunify the child with the parent from whom the child was removed. If this cannot be successfully accomplished, another permanency option shall be established for the child. A Permanency Progress Review Hearing is required within six months of the child’s placement. (See attached information and flow chart that outlines established guidelines).

Whenever possible, Isanti County Family Services (ICFS) will place a child in a concurrent permanency home or with an appropriate family member.

**Permanency Process**

Upon the placement of a child in care, ICFS will provide a blue folder to each parent. It includes the following documents that begin this initial process:

- Concurrent/Permanency Planning Disclosure statement.
- Relative Outline – Each parent completes this form by listing relatives with their addresses and phone number for the relative search.
- Releases for parents to sign in order for the Social Worker to talk with relatives about possible placement of child(ren).
- *Background and Health History* form for parents to complete providing the agency health information about the child and family members.

ICFS will give the parents a deadline to complete the required paperwork and return to the agency so the permanency process can begin. If the parents do not cooperate with this task, the Judge must order the parents to complete and return the documents. ICFS will begin evaluating the availability of relatives to provide permanent care for the child.

The Out-of-Home Placement Plan (OHPP) will be developed that will specifically outline the tasks that will need to be accomplished in order to safely return the child to the custodial parent’s care. ICFS and the Guardian ad Litem (GAL) must closely monitor the parents’ progress. This will be reported accurately back to the Court.

At each review hearing, the Judge must make specific findings regarding the progress of the parents in completing the OHPP and the efforts made by ICFS for reunification. The Judge will identify the date by which a permanency petition must be filed in a Scheduling Order and at each review hearing. Each court report from ICFS and the GAL shall list the number of days in out-of-home-placement for each child.

For each eligible child whose permanent placement is adoption and who is placed under the guardianship of the Commissioner of Human Services, an Adoption Placement Agreement will be completed by the responsible agency as early as possible.

ICFS will make every effort possible to place siblings together in a permanent home. In cases of adoption, if this cannot be done, ICFS will obtain written permission from the Court to place siblings in separate homes.

#### **MN Statutes and Rules**

**MN Statute 260C.001**

**MN Statute 260C.193**

**MN Statute 260C.201**

**MN Statute 260C.212**

**MN Statute 260C.223**

**MN Statute 260C.301**

**MN RJPP 42**

**MN RJPP 43**

Updated 10/22/2012

# PERMANENCY TIMELINE FOR CHILDREN IN OUT-OF-HOME PLACEMENT

(Timeline shows maximum days for each event)

## CHIPS Proceeding

0	3	3-13	28	30	53	63	103	123	180	193	283	335*	365*	(Permanency Proceeding Commenced)
Child Removed from home	Petition Served <sup>1</sup>	Admit Deny Hearing <sup>2</sup> (ADH)	Sched. Order Filed <sup>3</sup>	Out of Home Place. Plan Filed <sup>6</sup>	Pretrial Hearing <sup>7</sup>	Trial <sup>8</sup>	Disp. Rev. Hearing <sup>9</sup> if Adj & Disp. at ADH <sup>11</sup>	Adjud. Dispo. <sup>10</sup>	Perm. Rev. Hearing <sup>12</sup>	Disp. Review <sup>11</sup>	Disp. Rev. Hearing <sup>11</sup>	Perm. Petition Filed	365*	If multiple CHIPS petitions filed for the child over the past 5 years, and child has already been in out-of-home placement for at least 365 days, then if the agency establishes compelling reason the court may extend the commencement of the permanency proceeding (the Admit/Deny Hearing on the permanency petition) for up to 6 months.

If child not removed from home: Protective Services Case Plan<sup>3</sup>

## Permanency Proceeding

335	365	415	425	485	575
TPR Petition Filed <sup>13</sup>	Admit/Deny Hearing <sup>14</sup>	Pretrial Hearing <sup>15</sup>	Trial <sup>16</sup> Comm.	Findings Decision Filed <sup>17</sup>	Post-TPR Review Hearing <sup>18</sup>
335	365	415	425	485	575
TLC Petition Filed <sup>19</sup>	Admit/Deny Hearing <sup>20</sup>	Pretrial Hearing <sup>21</sup>	Trial <sup>22</sup> Comm.	Findings Decision Filed <sup>23</sup>	Post-TLC Review Hearing <sup>24</sup>
335	365	415	425	485	575
LTFC Petition Filed <sup>25</sup>	Admit/Deny Hearing <sup>26</sup>	Pretrial Hearing <sup>27</sup>	Trial <sup>28</sup> Comm.	Findings Decision Filed <sup>29</sup>	Annual Review Hearing <sup>30</sup>
335	365	415	425	485	575
FSPT Petition Filed <sup>25</sup>	Admit/Deny Hearing <sup>26</sup>	Pretrial Hearing <sup>27</sup>	Trial <sup>28</sup> Comm.	Findings Decision Filed <sup>29</sup>	Annual Review Hearing <sup>30</sup>
335	365	415	425	485	575
Consent To adopt Filed <sup>31</sup>				Findings Decision Filed <sup>32</sup>	90-Day Review Hearing <sup>33</sup>

### Termination of Parental Rights (TPR)

### Transfer of Permanent Legal and Physical Custody to a Relative (TLC)

### Long Term Foster Care (LTFC)

### Foster Care for a Specified Period of Time (FSPT)

### Guardianship and Legal Custody to Comm. of Human Services (GLCHS)



## CHIPS Proceedings

- 1 Summons and Petition: For a child in out-of-home placement, served at or before EPC hearing. For a child at home, served at least 3 days prior to Admit/Deny Hearing. (RJPP 32.02, subd. 5(a)).
- 2 EPC: Within 72 hours of child's removal from home, excluding Saturdays, Sundays, and legal holidays (RJPP 30.01, subd. 1; *Minn. Stat. § 260C.178, subd. 1(a)*).
- 3 Protective Services Cased Plan (plan that is filed when child has not been removed from home): Filed by social services at same time as CHIPS petition (RJPP 37.04(c); *Minn. Stat. § 626.556, subd. 10*).
- 4 Admit/Deny Hearing (ADH): If all parties agree, ADH may be combined with EPC. If child removed from home, ADH within 10 days of EPC hearing (RJPP 34.02, subd. 1); if child not removed from home, ADH no sooner than 5 days and no later than 20 days after service of Summons and Petition on parties (RJPP 34.02, subd. 2); if Indian child, ADH at least 10 days after ICWA notice received by tribe and tribe may request additional 20 days (best practice is to schedule for day 30) (RJPP 34.02, subd. 1(d)).
- 5 Scheduling Order: Issued within 15 days of the Admit/Deny Hearing and must include dates for filing of permanency petition and Admit/Deny Hearing on Permanency Petition. (RJPP 6.02)
- 6 Out of Home Placement Plan: Filed by social services agency within 30 days of child's court-ordered placement. (RJPP 37.02, subd. 2; *Minn. Stat. § 260C.212, subd. 1(b)*)
- 7 Pretrial: At least 10 days prior to trial (RJPP 36.01)
- 8 Trial: Commenced within 60 days of EPC or Admit/Deny, whichever is earlier; held on consecutive days; completed within 30 days of commencement (RJPP 39.02, subd. 1(a))
- 9 Findings/Adjudication Order: Within 15 days of conclusion of testimony, including time for filing briefs (may extend 15 days for good cause) (RJPP 39.05, subd. 1, 2; RJPP 40.01)
- 10 Disposition Order: Preferably issued on same day as adjudication finding, but no later than 10 days from adjudication order (RJPP 41.02)
- 11 Disposition Review Hearing: When disposition is custody to agency, review hearing at least every 90 days after disposition is ordered; when disposition is protective supervision, review hearing at least every 6 months (RJPP 41.06, subd. 1)
- 12 Permanency Progress Review Hearing: For child under age 8 (and any older or younger siblings), commenced not later than 180 days after court-ordered placement (RJPP 42.01, subd. 5(a))

## Permanency Proceeding

- 13 Termination of Parental Rights (TPR) Proceeding (*Minn. Stat. § 260C.201, subd. 11(d)(2) and RJPP 42.08*)
- 14 TPR Petition: Petition must be filed not later than 30 days prior to Admit/Deny Hearing (by month 11) (see exception\*) (RJPP 42.04; *Minn. Stat. § 260C.201, subd. 11(b)*)
- 15 Admit/Deny Hearing: For any child (regardless of age) who remains in foster care, the ADH must be commenced not later than 12 months after court-ordered placement (see exception\*) (*Minn. Stat. § 260C.201, subd. 11(a); RJPP 42.04(b), and RJPP 42.01, subd. 5(b)*)
- 16 Pretrial Hearing: At least 10 days prior to trial (RJPP 36.01)
- 17 Trial: Commenced within 60 days of the Admit/Deny Hearing; held on consecutive days; completed within 30 days of commencement (RJPP 39.02, subd. 1(c); *Minn. Stat. § 260C.201, subd. 11 (c)*)
- 18 Findings and Decision: Within 15 days of conclusion of testimony, including time for filing briefs (may extend 15 days for good cause) (RJPP 39.05, subd. 1)
- 19 Post-TPR Review Hearing: At least every 90 days following TPR decision until adoption finalized. (RJPP 42.08, subd. 5) If adoption not finalized within two years, can modify disposition to state ward for LTFC (RJPP 42.11, subd. 3(a))

## Transfer of Permanent Legal and Physical Custody to a Relative (TPLPC) Proceeding (*Minn. Stat. § 260C.201, subd. 11(d)(1) and RJPP 42.07*)

- 19 TPLPC Petition: Petition must be filed not later than 30 days prior to Admit/Deny Hearing (by month 11) (see exception\*) (RJPP 42.04; *Minn. Stat. § 260C.201, subd. 11(b)*)
- 20 Admit/Deny Hearing: For any child (regardless of age) who remains in foster care, the ADH must be commenced not later than 12 months after court-ordered placement (see exception\*) (*Minn. Stat. § 260C.201, subd. 11(a); RJPP 42.04(b), and RJPP 42.01, subd. 5(b)*)
- 21 Pretrial Hearing: At least 10 days prior to trial (RJPP 36.01)
- 22 Trial: Commenced within 60 days of the Admit/Deny Hearing; held on consecutive days; completed within 30 days of commencement (RJPP 39.02, subd. 1(c); *Minn. Stat. § 260C.201, subd. 11 (c)*)
- 23 Findings and Decision: Within 15 days of conclusion of testimony, including time for filing briefs (may extend 15 days for good cause) (RJPP 39.05, subd. 1)
- 24 Post-TPLPC Review Hearing: Not required unless judge so orders; however, best practice is to order review hearings for 30-60 days to ensure smooth transition and needs of child are being met (RJPP 42.07, subd. 7)

## Long Term Foster Care (LTFC) and Foster Care for Specified Period of Time (PSPT) Proceedings (*Minn. Stat. § 260C.201, subd. 11(d)(3) and (4) and RJPP 42.11 and 42.12*)

- 25 LTFC or PSPT Petition: Petition must be filed not later than 30 days prior to Admit/Deny Hearing (by month 11) (see exception\*) (RJPP 42.04; *Minn. Stat. § 260C.201, subd. 11(b)*)
- 26 Admit/Deny Hearing: For any child (regardless of age) who remains in foster care, the ADH must be commenced not later than 12 months after court-ordered placement (see exception\*) (*Minn. Stat. § 260C.201, subd. 11(a); RJPP 42.04(b), and RJPP 42.01, subd. 5(b)*)
- 27 Pretrial Hearing: At least 10 days prior to trial (RJPP 36.01)
- 28 Trial: Commenced within 60 days of the Admit/Deny Hearing; held on consecutive days; completed within 30 days of commencement (RJPP 39.02, subd. 1(c); *Minn. Stat. § 260C.201, subd. 11 (c)*)
- 29 Findings and Decision: Within 15 days of conclusion of testimony, including time for filing briefs (may extend 15 days for good cause) (RJPP 39.05, subd. 1)
- 30 Post-LTFC Review Hearing: At least annually until child discharged from foster care; best practice is more frequent hearings for older youth age 17+ who are about to be discharged from foster care to ensure a smooth transition and understand details of adult life from checking accounts to rent to groceries (RJPP 42.11, subd. 4; RJPP 42.12)

## Guardianship and Legal Custody to Commissioner of Human Services (*Minn. Stat. § 260C.201, subd. 11(d)(5) and RJPP 42.09 and 42.10*)

- 31 Consent to Adopt by an Identified Adoptive Home: A permanency petition is not filed but, instead, the parent signs a consent to adopt by an adoptive parent that has been agreed to by the agency. Unless the matter is governed by ICWA, the consent is irrevocable unless the child's parent didn't receive notice of the irrevocable nature of the consent or unless there is fraud. Acceptance of the consent does not automatically terminate parental rights, but it does vest with the commissioner of human services all legal authority regarding the child, including guardianship and legal custody of the child as if the child were a state ward after termination of parental rights. If an adoption is not finalized within 12 months of the execution of the consent to adopt, the commissioner or agency shall pursue adoptive placement in another home unless the commissioner certifies that the failure to finalize is not due to either an action or a failure to act by the prospective adoptive parent.
- 32 Findings and Decision: Within 15 days of the consent (may extend 15 days for good cause), court must issue findings and order transferring guardianship and legal custody. (RJPP 42.10)
- 33 Post-Consent Review Hearing: At least every 90 days following consent until adoption finalized. (RJPP 42.09, subd. 3) If adoption not finalized within two years, can modify disposition to state ward for LTFC (RJPP 42.11, subd. 3(a))

\* = Exception: If multiple CHIPS petitions filed for child over past 5 years, and child has been in foster care for 12 months, then if agency shows compelling reasons court may extend up to 6 months.

**ISANTI COUNTY CHILDREN'S JUSTICE INITIATIVE  
Protocol Guidelines**

**Termination of Parental Rights**

**Required Termination of Parental Rights (TPR)**

A TPR petition shall be filed by the County Attorney within 30 days of Isanti County Family Services (ICFS) determining the following:

- A child has been subjected to egregious harm.
- A child is a sibling of another child of the parent who was subjected to egregious harm.
- A child is an abandoned infant.
- The parent has lost parental rights to another child through an order involuntarily terminating the parent's rights.
- The parent has committed sexual abuse as defined in section 626.556 against the child or another child of the parent.
- The parent has committed an offense that requires registration as a predatory offender under section 243.166.
- Another child of the parent is the subject of an order involuntarily transferring permanent legal and physical custody of the child to a relative.

The TPR does not need to be filed in those circumstances where the County Attorney files with the court one of the following:

- A petition for transfer of permanent legal and physical custody to a relative, along with a determination that it is in the best interests of the child.
- A Child In Need of Protective Services petition, along with a case plan prepared by ICFS documenting a compelling reason why filing a TPR petition would not be in the best interests of the child.

**Voluntary and Involuntary TPR**

With written consent, a parent may voluntarily terminate his/her parental rights with good cause.

Typically, involuntary TPRs occur when the ICFS documents why this would be in the best interests of a child. This typically occurs when the agency has worked with a family and reasonable efforts have been made by ICFS, but the parents have failed to correct the conditions leading to placement, have not complied with the court ordered case plan, or the child has lived out of the parental home under court order for six months (children under age eight and their siblings) or twelve months (children eight years and older).

**Timing of TPR Petition and Hearings**

A TPR petition can be filed at any time by any party.

The petition must be filed no later than 30 days after the Permanency Progress Review Hearing if the court orders ICFS to file a TPR petition or a Permanency Petition. For all children who have been placed out of the home, an Admit/Deny Hearing on a TPR petition or Permanency Petition shall commence no later than 12 months after a child has been placed out of the parental home. The Permanency Petition or TPR petition in

those circumstances must be filed no later than 11 months after the child has been placed out of the parental home.

If a denial is entered at the Admit/Deny Hearing, the TPR trial will begin within 60 days of the Admit/Deny Hearing and testimony shall conclude within 30 days of the beginning of the trial. The trial should be held over consecutive days whenever possible.

#### **Commissioner of Human Services**

Once the court terminates parental rights, the court orders the guardianship and legal custody of the child transferred to the Commissioner of Human Services.

#### **Court Orders/Notices**

A certified copy of the findings and TPR order, and a summary of the court's information concerning the child shall be furnished by the court to the Commissioner. The orders shall be on a document separate from the findings. The court shall furnish the individual to whom guardianship is transferred a copy of the TPR order.

The court shall provide written notice to the parents whose parental rights were terminated explaining the following:

- The right of the parent to file at any time with the state registrar of vital statistics a consent to disclosure, as defined in section 144.212, subdivision 11.
- The right of the parent to file at any time with the state registrar of vital statistics an affidavit stating the information on the original birth record shall not be disclosed as provided in section 144.2252.
- The effect of a failure to file either a consent to disclosure, as defined in section 144.212, subdivision 11, or an affidavit stating that the information on the original birth record shall not be disclosed.

The notice is entitled, Notice To Parent Following Termination of Parental Rights and attached to the notice is the Affidavit of Disclosure or Non-Disclosure Regarding An Original Birth Certificate on an Adopted Child.

A copy of this notice will be sent to ICFS to document that the biological parents were informed of their rights to release and the adopted child's rights to obtain birth information per MN Statute 259.83 Subd. 3.

#### **Continued Court Hearings**

The court shall retain jurisdiction in the case until adoption is finalized. Every 90 days a review hearing shall be held to review the following:

- The progress in finalizing the adoptive placement.
- The recruitment efforts to find an adoptive family.
- The efforts to find another living arrangement to finalize the adoption or another permanency plan.

ICFS may recommend to the court that a child be placed in long term foster care with compelling reasons after the agency has made exhaustive efforts to recruit, identify, and place the child in an adoptive home, and the child continues in foster care for at least 24 months after the TPR was ordered.

**If TPR is Not Ordered**

If the court does not terminate parental rights the court may order the child in need of protection or services if it is so determines.

If the child has been out of the home for 15 of the last 22 months, the court must order the child to return home unless the court approves the agency's compelling reasons for the child to remain out of the home. If the child is returned home, the court may order a trial home visit, protective supervision, or further monitoring.

**MN Statutes and Rules**

**MN Statutes**

259.83, Subd. 3 – Post Adoption Services; Identifying Information

260C.007, Subd. 14 – Egregious Harm

260C.201, Subd. 11 – Review of Court-ordered placements

260C.201, Subd. 11a – Permanency review for children under eight

260C.301 – Termination of Parental Rights

260C.307 – Procedures in Terminating Parental Rights

260C.312 – Disposition; Parental Rights Not Terminated

260C.317 – Termination of Parental Rights; Effect

260C.325 – Guardian

**MN Rules of Juvenile Protection Procedure**

Rule 33.01, Subd. 3 – Petition; Termination of Parental Rights Matters

Rule 39.02, Subd.1(c) – Trial; Timing

Rule 42.04 – Procedures for Permanency Progress Review Hearing

Rule 42.08 – Involuntary and Voluntary Termination of Parental Rights Proceedings

**ISANTI COUNTY CHILDREN'S JUSTICE INITIATIVE**  
**Protocol Guidelines**

**18-21 Year Old Youth in Placement**

Youth, ages 18-21, that are eligible for foster care services are categorized into two subsections:

- Youth currently in foster care prior to their 18<sup>th</sup> birthday.
- Youth who have left foster care and wish to re-enter foster care.

**Notices of Foster Care to Youth**

Six months prior to the youth's 18<sup>th</sup> birthday, Isanti County Family Services (ICFS) will provide a Notice of Foster Care Benefits Up to Age 21 letter to youth in foster care. This notice also includes the right to appeal a denial of social services.

**YOUTH CURRENTLY IN FOSTER CARE**

**Eligibility for Continued Foster Care**

In complying with the Fostering Connections to Success and Increasing Adoptions Act, youth in foster care who are unable to return home or achieve permanency prior to their 18<sup>th</sup> birthday, must meet at least one of the following criteria in order to continue in foster care:

- Completing a secondary education or program leading to an equivalent credential;
- Enrolled in postsecondary or vocational education institution;
- Participating in a program or activity designed to promote or remove barriers to employment;
- Employed for at least 80 hours per month; or
- Due to a medical condition is unable to do any of the above listed activities.

The ICFS Social Worker shall verify the youth's eligibility for continued foster care services in a report to Court. Once a youth is eligible for foster care services beyond age 18, ICFS will have the youth request in writing her/his desire to remain in foster care. Also, ICFS and the youth will sign a voluntary placement agreement, out of home placement plan and an independent living skills plan.

**Legal Responsibility for Continued Foster Care**

A review hearing will be held either before the youth becomes 18 or soon after to address the legal responsibility for the youth continuing in foster care.

- The Court terminates the legal custody or guardianship of the youth; and
- The Court maintains jurisdiction; and
- The Court reviews ICFS's reasonable efforts for permanency; and
- The Court states that the youth will continue in placement under the legal responsibility of ICFS.

Public defenders shall remain on case until the Court dismisses the appointment or the file is dismissed.

GAL that is assigned to the CHIPS case will remain on the case until the Court dismisses the appointment or the file is dismissed.

## **Court Reviews for Youth in Continued Foster Care**

Review hearings will continue every 12 months until the youth is 21 years of age. At each hearing, the Court will review and make findings on:

- Whether foster care is in the best interests of the youth.
- ICFS has made reasonable effort to finalize the permanency plan by:
  - Ensuring foster care is the best legal arrangement for the youth
  - Assisting the youth in building life-long relationship with family, siblings, and other caring, safe and supportive individuals
  - Planning and assisting the youth in achieving independent living skills (e.g. IL plan)
- The out of home placement plan and the following:
  - Safety , permanency needs and well-being of the youth
  - Compliance with the plan
  - Provision of services by ICFS and their appropriateness to meet the youth's needs
- The independent living plan (ILP) and the progress toward or accomplishment of the following:
  - The youth has obtained a high school diploma or its equivalent
  - The youth has completed a driver's education course or has demonstrated the ability to use public transportation in the youth's community
  - The youth is employed or enrolled in postsecondary education
  - The youth has applied for and obtained postsecondary education financial aid for which the child is eligible
  - The youth has health care coverage and health care providers to meet the youth's physical and mental health needs
  - The youth has applied for and obtained disability income assistance for which the child is eligible
  - The youth has obtained affordable housing with necessary supports, which does not include a homeless shelter
  - The youth has saved sufficient funds to pay for the first month's rent and a damage deposit
  - The youth has an alternative affordable housing plan which does not include a homeless shelter, if original housing plan is unworkable
  - The youth, if male, has registered for the Selective Service
  - The youth has a permanent connection to a caring adult
- ICFS's efforts to assist the youth in obtaining the following prior to leaving foster care:
  - A Social Security card
  - Youth's birth certificate
  - State identification card or driver's license
  - Green card or school visa
  - Youth's school, medical, and dental records
  - Contact list of the youth's medical, dental and mental health providers
  - Contact information for the youth's siblings, if the sibling are in foster care
- ICFS's efforts to assist the youth in building life-long relationships with family, siblings, and other caring, safe and supportive individuals.

Reports to Court and Independent Living Plan Summary from ICFS Social Worker shall be submitted to Court Administration 10 days prior to the review hearing via the county attorney. Included in the report to Court

will be the Report to Court face sheet and Independent Living Plan Summary (see attached.) GAL reports shall be submitted to Court Administration within five days of the review hearing.

## **YOUTH WHO WANT TO RETURN TO FOSTER CARE**

### **Eligibility to Re-enter Foster Care**

- Youth, ages 18-21, who were under state guardianship of the commissioner of human services (state wards) have the right to come back into foster care.
- Other youth (those in placement six consecutive months prior to their 18<sup>th</sup> birthday or who were discharged while on runaway status after age 15) may return to foster care to the extent funds are available.

### **Legal Responsibility for Foster Care Re-entry**

- The youth and ICFS shall enter into a voluntary placement agreement giving ICFS the legal responsibility for the youth in foster care.

### **Court Reviews**

- Within 30 days of the voluntary foster care agreement, ICFS will send a report to the County Attorney and request a motion to be filed with the Court requesting the Court to do the following:
  - Re-open the previous court file ; and
  - Review the youth's placement in foster care and find that the placement is in the best interests of the child
- ICFS will provide the County Attorney the following with the report :
  - Written documentation of the youth's desire to re-enter foster care,
  - The voluntary placement agreement,
  - Out of home placement plan, and
  - The independent living skills plan.
- The County Attorney will provide a date by which the hearing must be held (no longer than 180 days of youth's re-entry to foster care.
- Court Administration will send notices of the hearing to parties and participants as identified from the County Attorney.
- The Court shall conduct a hearing within 30 days of the motion. If the Court finds placement is in the best interest of the child, at least every 12 months thereafter, a court review shall be conducted as long as the child continues in foster care to address the placement is in the best interests of the child and to address ICFS's reasonable efforts to finalize the permanency plan
- Post permanency placement information will not be recorded for these matters.
- Guardian Ad Litem and Public Defenders will be appointed to represent the youth in Court.

### **ICWA Youth who are in Continued Placement**

When a tribe has a Title IV-E Agreement with the State of Minnesota (MN), the tribe is responsible for meeting the IV-E requirements as well as providing the opportunity for a tribal member youth eligible to remain in foster care past their 18<sup>th</sup> birthday. The tribe is responsible for providing the notice of foster care after age 18, ensuring the eligibility of foster care after age 18, the plans and reports to Court for court reviews. ICFS will continue to be responsible for foster care payments.

Tribes that do not have a Tribal IV-E Agreement with the State of MN must decide whether to exert tribal jurisdiction and provide the youth the opportunity to continue in foster care after age 18. Should a tribe not exert jurisdiction and the youth meets eligibility requirements, ICFS will be responsible for notices, establishing eligibility, designing placement plans, writing reports to Court, and cost of foster care for an eligible youth.

### **ICWA Youth Re-entering Foster Care**

The tribe decides whether to have the youth return to foster care. If the tribe orders the youth into foster care, the tribe is financially responsible for the cost of foster care.

## **YOUTH LEAVING FOSTER CARE**

### **90 Day Transition Plan**

For youth who will be discharged from foster care at age 18 or older, a 90 Day Transition Plan will be completed that includes the following:

- Where the youth will live after leaving foster care.
- What health coverage the youth will have, what providers are part of that health network, and any upcoming medical appointments.
- The youth's educational plans.
- Identification of mentors and supportive adults.
- The youth's work force supports and employment services.
- Community resources for the youth with phone numbers.
- Information about health care directives, power of attorney, proxy, etc.

### **Discharge of Youth from Foster Care and Court Jurisdiction**

When a youth no longer meets one of the criteria listed for eligibility of extended foster care after age 18, the youth may be discharged from foster care. ICFS will send a notice to the youth that foster care services will terminate 30 days from the date the notice is sent. A copy of the notice will be sent to the County Attorney, youth's attorney, foster care provider, the GAL and the Court. A motion can be filed asking the court to review ICFS's decision. Should this happen the youth will not be discharged from foster care until the motion is heard.

Court jurisdiction shall not be terminated without the youth being given notice of the intent to dismiss the CHIPS matter and the opportunity to be heard on the appropriateness of the dismissal. When the youth asks to leave foster care or actually leaves foster care, the Court may terminate its jurisdiction. The Court may also terminate jurisdiction on its own motion or the motion of any interested party when the court determines it is no longer necessary to protect the child's best interests except when a court order is necessary for a youth to be in foster care or continued court review is statutorily required.

### **Minnesota Statutes and Federal Law**

M.S. 260C.212, Sub. 7 – Administrative or Court Review of Placements

M.S. 260C.451 – Foster Care Benefits to Age 21

M.S. 260C.193 – Dispositions; General Provisions

M.S. 260.77 – MN Indian Family Preservation Act

Public Law 110-351

**REPORT TO COURT**  
**Review Hearing Face Sheet**

In the Matter of the Child(ren) of:	District Court File No: Court File No.	Date:
<b>RECOMMENDATIONS:</b>		
<b>TASKS COMPLETED:</b>		
<b>TASKS TO BE COMPLETED:</b>		
<b>ADDITIONAL INFORMATION:</b>		

## Independent Living Plan Summary

In the Matter of the Child(ren) of:	District Court File No:	Date:

Date youth was provided Notice of Foster Care Benefits up to Age 21: \_\_\_\_\_

Has youth obtained or will obtain high school diploma or its equivalent? Yes    No

Has youth completed driver's education course or demonstrated ability to use public transportation? Yes    No

Youth is employed or participating in workforce supports? Yes    No

Youth is enrolled in postsecondary education? Yes    No

Date youth applied for and obtained postsecondary education financial aid \_\_\_\_\_

Youth was provided health care coverage and health care providers to meet physical and mental health needs? Yes    No

Youth was provided information on Health Care Directive? Yes    No

Did youth apply for and obtain disability income assistance, if eligible? Yes    No

Does youth have housing that is not a homeless shelter and an alternative housing plan? Yes    No

Does youth have sufficient funds to pay for the first month's rent and damage deposit? Yes    No

If male, has youth registered for the Selective Service? Yes    No

Does youth have list of adults who are connected to the youth? Yes    No

Date child was provided the following documents: \_\_\_\_\_

Social Security card; birth certificate state identification card or driver's license; contact information for siblings (if they are in care and appropriate); contact list of youth's medical, dental and mental health providers; youth's social and medical history; medical records, dental records, greencard or school visa; school records and education report.

Date youth was provided contact information for crisis situations: \_\_\_\_\_

## YOUTH TRANSITIONING OUT OF FOSTER CARE TIMELINE

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STATUTE	TIMELINE	SOCIAL SERVICE AGENCY	COURT
260C.212, subd. 1 (c) (11) – Independent Living Plan	Required for a child age 16 or older who is in placement as a result of a permanency disposition. Best practice is that all foster youth age 16 and older should have an Independent Living Plan (IL).	<ul style="list-style-type: none"> <li>Agency staff should meet with the youth and inform him/her of the requirement to begin developing an Independent Living Plan as a supplement to the Out of Home Placement Plan.</li> <li>The Department of Human Services recommends that this process begin with the social worker having the youth and a caretaker complete the most appropriate version of the Ansell-Casey Life Skills Assessment (ACLSA) (see versions for American Indian, Parenting and GLBTQ youth).</li> <li>Other means of conducting the Life Skills Assessment are through the Family Group Decision Making process (FGDM) or in a Youth in Transition Conference (YTC).</li> <li>Upon completion of the assessment process, the worker, together with the youth, can proceed to complete the ILP based on identified areas of need and skill development. Minn. Stat. § 260C.212, subd. 1(c)(11) requires the agency to prepare the plan, which must be signed by the youth, and which should include, but not be limited to, the following objectives:</li> </ul>	During regular in-court review hearings, the court should review the Out of Home Placement Plan and ILP with the youth and others in court (see below regarding court hearings)

STATUTE	TIMELINE	SOCIAL SERVICE AGENCY	COURT
<p><b>260C.163 – Hearing with the child during the hearing</b></p> <ul style="list-style-type: none"> <li>• Subd. 1 (e) – Consult with the child during the hearing</li> <li>• Subd. 2 – Right to participate in proceedings</li> </ul>	<p>Court hearings to review Independent Living Plan (ILP) and progress toward transition goals</p>	<ul style="list-style-type: none"> <li>(i) educational, vocational, or employment planning;</li> <li>(ii) health care planning and medical coverage;</li> <li>(iii) transportation including, where appropriate, assisting the child in obtaining a driver's license;</li> <li>(iv) money management;</li> <li>(v) planning for housing;</li> <li>(vi) social and recreational skills; and</li> <li>(vii) establishing and maintaining connections with the child's family and community.</li> </ul> <ul style="list-style-type: none"> <li>• Prepare youth for what will happen in court.</li> <li>• If the youth is 16+, prepare them to comment on their understanding of the progress or accomplishment of the eleven transition goals.</li> <li>• Explain to youth the roles of the various adults in the courtroom.</li> <li>• Make youth aware of any anticipated conflicts or disagreements.</li> <li>• Arrange transportation for the youth.</li> <li>• Consult with the Guardian Ad Litem regarding needs of youth and recommends to the court, and discern areas of difference and/or conflict.</li> <li>• Determine the role of caregiver in terms of support and participation in court.</li> <li>• Discuss recommendations with the caretaker and how they may impact the youth.</li> <li>• Determine if foster parent wishes to address the court (in person or in writing), which is permitted by the Juvenile Protection Rules.</li> </ul>	<ul style="list-style-type: none"> <li>• A child who is the subject of a petition, and the parents, guardian, or legal custodian of the child, have the right to attend and participate in all hearings, including the right to personally address the court.</li> <li>• Expect youth to attend hearings and establish a policy for your county regarding youth attendance in court.</li> <li>• Consult with the child during the hearing in an age-appropriate manner.</li> <li>• If the youth is age 16+, ask the youth to comment on his/her understanding of the progress or accomplishment of the eleven transition goals listed in Minn. Stat. § 260C.212, subd. 7(d)(2).</li> <li>• Ask the youth what plans he/she has once they turn 18.</li> <li>• If the youth is age 17+, ask the youth if he/she understands the right to remain in foster care beyond age 18 up to age 21 per Minn. Stat. § 260C.451 and 260C.456.</li> <li>• Ask the youth whether he/she has received written notice of foster care benefits to age 21 which the agency is required to provide 6 months prior to the youth's 18<sup>th</sup> birthday.</li> </ul>

STATUTE	TIMELINE	SOCIAL SERVICE AGENCY	COURT
<p>260C.212, subd. 7(d) – Administrative or Court Review of Placements</p>	<p>Annual review hearings for youth in Long Term Foster Care pursuant to Minn. Stat. § 260C.201, subd. 11, or § 260C.317, subd. 3.</p>	<ul style="list-style-type: none"> <li>• Debrief youth and caretaker after hearing to assure they understand what happened and answer any questions they may have.</li> </ul>	<ul style="list-style-type: none"> <li>• Ask the youth if he/she is aware of the Education and Training Voucher (ETV) Program which helps foster youth pay for post-secondary education and, if not, request the social worker to work with the youth to apply in their senior year.</li> <li>• Review the Out of Home Placement Plan and Independent Living Plan (ILP) and make findings regarding progress that has been made and areas where progress needs to be accomplished.</li> <li>• Schedule a review hearing with 6 months and request an update of the ILP and transition goals (best practice).</li> </ul>
			<ul style="list-style-type: none"> <li>• Annual review hearings shall include review of the actual plans related to each item in the plan necessary to the child's future safety and well-being when the child is no longer in foster care.</li> <li>• The court's review of the Independent Living Plan shall include review of progress toward or accomplishment of the following goals for the youth: <ul style="list-style-type: none"> <li>• obtained a high school diploma or its equivalent;</li> <li>• completed a driver's education course or has demonstrated the ability to use public transportation in the child's community;</li> <li>• employed or enrolled in postsecondary education;</li> <li>• applied for and obtained postsecondary education financial aid for which the child is eligible;</li> <li>• health care coverage and health care providers to meet the child's physical and mental health needs;</li> </ul> </li> </ul>

STATUTE	TIMELINE	SOCIAL SERVICE AGENCY	COURT
			<ul style="list-style-type: none"> <li>• applied for and obtained disability income assistance for which the child is eligible;</li> <li>• obtained affordable housing with necessary supports, which does not include a homeless shelter;</li> <li>• saved sufficient funds to pay for the first month's rent and a damage deposit;</li> <li>• an alternative affordable housing plan, which does not include a homeless shelter, if the original housing plan is unworkable;</li> <li>• if male, has registered for the Selective Service; and</li> <li>• a permanent connection to a caring adult.</li> </ul> <ul style="list-style-type: none"> <li>• At the court review, the agency shall establish that it has given to the youth the notice required under Minn. Stat. § 260C.451 regarding the right to continued access to services for certain children in foster care past age 18 and of the right to appeal a denial of social services under Minn. Stat. § 256.045. If the agency is unable to establish that the notice has been given, the court shall require the agency to give it.</li> </ul>
<b>260C.451 – Foster Care Benefits to Age 21</b> <ul style="list-style-type: none"> <li>• Subd 1 – Notification of benefits</li> </ul>	Within 6 months prior to the child's 18th birthday	<ul style="list-style-type: none"> <li>• Advise any child in foster care, the child's parents or legal guardian, if any, and the child's foster parents of the availability of benefits of the foster care program up to age 21.</li> <li>• Document that notice was provided.</li> </ul>	

STATUTE	TIMELINE	SOCIAL SERVICE AGENCY	COURT
<p><b>260C.451 – Foster Care Benefits to Age 21</b></p> <ul style="list-style-type: none"> <li>Subd 2 – Independent Living Skills Plan</li> </ul>		<ul style="list-style-type: none"> <li>With the child and other appropriate parties, update the plan required under Minn. Stat. § 260C.212, subd. 1(c)(11), related to the child's employment, vocational, educational, social, or maturational needs.</li> <li>File the plan with the court and provide copies to the parties.</li> </ul>	
<p><b>260C.451 – Foster Care Benefits to Age 21</b></p> <ul style="list-style-type: none"> <li>Subd 6 – Return to Foster Care for youth who had been under the guardianship of the commissioner</li> </ul>		<p>The agency shall:</p> <ul style="list-style-type: none"> <li>Develop with the youth a plan related to the individual's vocational, educational, social, or maturational needs.</li> <li>Provide foster care with maintenance and counseling benefits as required to implementing the plan.</li> <li>Enter into a voluntary placement agreement with the individual if the plan includes foster care.</li> </ul>	<ul style="list-style-type: none"> <li>If the youth re-enters foster care, a judicial determination that placement is in the youth's best interests is necessary for any youth over the age of 18 re-entering foster care via a voluntary placement agreement.</li> <li>The finding may be based on the youth's request for extended foster care benefits.</li> </ul>
<p><b>260C.456 – Foster Care Benefits Until Age 21 – Return to foster care for non-state wards</b></p>	<p>Upon request of a person, at any time, between the ages of 18 and 21 who had been receiving foster care benefits in the six consecutive months prior to the persons 18<sup>th</sup> birthday or who had been discharged while on runaway status after age 15 or who had been under the guardianship of the commissioner of the Department of Human Services.</p>	<ul style="list-style-type: none"> <li>The local agency shall develop, in conjunction with the youth and other appropriate parties, a specific plan related to that person's vocational, educational, social' or maturational needs and to the extent funds are available, shall ensure that any foster care, housing, or counseling benefits are tied to that plan.</li> <li>Enter into a voluntary placement agreement with the individual if the plan includes foster care.</li> </ul>	<ul style="list-style-type: none"> <li>If the youth re-enters foster care, a judicial determination that placement is in the youth's best interests is necessary for any youth over the age of 18 re-entering foster care via a voluntary placement agreement.</li> <li>The finding may be based on the youth's request for extended foster care benefits.</li> <li>Following requirements in the federal Instructional Bulletin issued July 9, 2010, a judicial determination that placement is in the youth's best interests is necessary for any youth over the age 18 re-entering foster care via a voluntary placement agreement. The finding may be based on the youth's request for extended foster care benefits.</li> </ul>

STATUTE	TIMELINE	SOCIAL SERVICE AGENCY	COURT
			<ul style="list-style-type: none"> <li>The county agency may ask the court to re-open the juvenile protection file on the youth in order to request the court to make required best interests determination. The County Attorney's Office should discuss with the local court what procedural requirements are necessary to accomplish re-opening court jurisdiction and the file. The county's Children's Justice Initiative team is an ideal place to have this discussion. Procedural requirements might include filing a motion for the court to re-assume jurisdiction under Minn. Stat. § 260C.193, subd. 6, and filing with the court a request for a review hearing under Minn. Stat. § 260C.212, subd. 7, and for the determination that placement is in the youth's best interest. The agency should file the out-of-home placement plan and a report containing sufficient information for the court to conduct the review and make the determination.</li> <li>The best interest's judicial determination is required within 180 days of the child's re-entry into foster care which coincides with the required timing of the reviews required under Minn. Stat. § 260C.212, subd. 7.</li> </ul>
<p>260C.212, subd. 7(e) – Ninety-day plan for youth that are being discharged from care</p>	<p>When a child is age 17 or older, during the 90-day period immediately prior to the date the child is expected to be discharged from foster care</p>	<ul style="list-style-type: none"> <li>Required to provide the child with assistance and support in developing a transition plan that is personalized at the direction of the child. The transition plan must be as detailed as the child may elect and include specific options on housing, health insurance, education, local opportunities for mentors and continuing support services, work force supports and employment services.</li> </ul>	

Social Services Information System (SSIS)  
Youth Transitioning Out of Foster Care Timeline

9/15/10

STATUTE	TIMELINE	SOCIAL SERVICE AGENCY	COURT
		<ul style="list-style-type: none"> <li>• Provide the individual with appropriate contact information if the individual needs more information or needs help dealing with a crisis situation through age 21.</li> <li>• Requires that information provided to the youth should include the youth's option to designate another individual to make health care treatment decision on behalf of the youth if he/she becomes unable to make these decisions and the youth does not have, or does not want, a relative who would otherwise be authorized to make such decisions on the child's behalf. In Minnesota this is known as a Health Care Directive.</li> </ul>	
260C.212, subd. 4(e) – Child's Social/Medical History	Youth leaves foster care by reason of having attained the age of majority under state law	<ul style="list-style-type: none"> <li>• Whether under state guardianship or not the youth must be given at no cost a copy of the child's social and medical history, as defined in section 259.43, and education report.</li> </ul>	
260C.212, subd. 7(d)(3) – Important Documents for Child	Prior to the child's leaving foster care	<ul style="list-style-type: none"> <li>• In conjunction with the placement provider, assist the child in obtaining the following documents: <ul style="list-style-type: none"> <li>• a Social Security card;</li> <li>• the child's birth certificate;</li> <li>• a state identification card or driver's license, green card, or school visa;</li> <li>• the child's school, medical, and dental records;</li> <li>• a contact list of the child's medical, dental, and mental health providers; and</li> <li>• contact information for the child's siblings, if the siblings are in foster care.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• The court shall ensure that the responsible agency, in conjunction with the placement provider, assists the child in obtaining this information.</li> </ul>

STATUTE	TIMELINE	SOCIAL SERVICE AGENCY	COURT
<p>260C.201, subd. 10(e) – Annual Court Review</p>	<p>When the youth is in continuous foster care, the reviews must be held every 12 months, but best practice is to schedule these hearings for every six months.</p>	<ul style="list-style-type: none"> <li>When a youth is in extended foster care (age 18 to 21), there is a need for court reviews and judicial determinations of reasonable efforts to finalize the permanency plan for the youth.</li> <li>The agency must ask the court to review and making findings on the agency's reasonable efforts.</li> </ul>	<ul style="list-style-type: none"> <li>The court shall review and make determinations regarding the agency's efforts to finalize the permanency plan for the youth. Findings must include the agency's efforts to: <ul style="list-style-type: none"> <li>Ensure that foster care is the best legal arrangement for the child or whether there is another legal option that would better meet the need of the youth for a life-long family;</li> <li>Assist the youth in building life-long relationships with family, siblings, and other caring, safe, and supportive individuals; and</li> <li>Plan with the youth to utilize supports and services that develop an appropriate set of skills necessary for successful independence after foster care.</li> </ul> </li> </ul>

## ISANTI COUNTY CHILDREN'S JUSTICE INITIATIVE Protocol Guidelines

### **Indian Child Welfare Act**

The Indian Child Welfare Act (ICWA) is a federal law designed to ensure that child protection proceedings involving Indian children are carried out in a manner that is sensitive to Indian culture, and to the value of tribal integrity. In cases in which ICWA applies, there are various additional procedural requirements that must be observed, and the Social Worker should discuss the case with the County Attorney's Office at his or her earliest opportunity. The most critical of those additional procedural requirements are addressed below.

#### **Determining Whether ICWA Applies**

- As early as possible, the Social Worker should determine whether a child who is the subject of a report alleging maltreatment or neglect is an Indian child, by discussing the child's ethnicity with his or her parents or legal custodian.

#### **Party Status**

- In ICWA cases, the parties include the child's parents, as defined in Rule 2.01(16), the child's Indian custodian, and the Indian child's tribe through the tribal representative.

#### **Notice and Timing Requirements**

- *Initial Notice.* When Isanti County Family Services is seeking a foster care placement of – or a termination of parental rights to – an Indian Child, Isanti County Family Services must notify the parent or Indian custodian and the Indian child's tribe of the pending proceedings, and also of their right to intervene. The notice should be sent by registered mail with return receipt requested, unless personal service has been accomplished.
- *Notice to the Bureau of Indian Affairs.* If the identity or location of the parent or Indian custodian and the tribe cannot be determined, the notice shall be given to the Secretary of the Interior through the Bureau of Indian Affairs, who has fifteen days after receiving this notice to provide notice to the parent or Indian custodian and the tribe. Notice to the Secretary is not required if the relevant Indian tribe is identified and located, but Isanti County Family Services is unable to locate the parent or custodian. Any notices required under this section will be sent by Isanti County Family Services, in consultation with the County Attorney's Office. Any admit/deny hearing in these circumstances must be at least twenty-five days after receipt of the notice by the Secretary. The parent, Indian custodian, or child's tribe shall, upon request, be granted up to an additional twenty days from receipt of the notice to prepare for the admit/deny hearing.

- *Timing of Hearings.* No foster care placement or termination of parental rights proceeding may be held until at least ten days after receipt of notice by the parent or Indian custodian and the tribe, and the parent or Indian custodian or tribe shall have the right to continue the hearing for up to twenty additional days to prepare for the proceeding.
- *Filing Requirement.* The original or a copy of each notice should be filed with the court, together with any return receipts or other proof of service.

### **Tribal Court Jurisdiction**

- *Wards of Tribal Court.* Where an Indian child is a ward of tribal court, the tribe has exclusive jurisdiction of the matter, and the court should order that the child be returned to the jurisdiction of the Indian child's tribe as quickly as possible.
- *Transfer to Tribal Court.* An Indian child's parent, Indian custodian, or tribe may request that a juvenile protection matter be transferred to the Indian child's tribe. The detailed procedures for such a transfer are included in Rule 48 of the Rules of Juvenile Protection Procedure.

### **Qualified Expert Witness Requirement**

- *Definition.* For the purposes of ICWA, a "qualified expert witness" is (1) a member of an Indian child's tribe who is recognized by the tribal community as knowledgeable in tribal customs of family organization and child rearing; (2) a lay expert witness having substantial experience in the delivery of child and family services to Indians, and extensive knowledge of prevailing social and cultural standards and child rearing practices within the Indian child's tribe; or (3) a professional person having substantial education and experience in the area of the professional person's specialty, along with substantial knowledge of prevailing social and cultural standards and child-rearing practices within the Indian community. In ICWA cases, the Social Worker and County Attorney should begin discussing the issue of obtaining a qualified expert witness at their earliest opportunity.
- *Emergency Placement.* Unless there are extraordinary circumstances, temporary emergency custody of an Indian child should not be continued for more than ninety days without a determination by the court, supported by the testimony of at least one qualified expert witness, that the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.
- *Foster Care Placement.* In the case of an Indian child, foster care placement shall not be ordered in the absence of testimony of at least one qualified expert witness that the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.

- *Termination of Parental Rights.* In the case of an Indian child, termination of parental rights shall not be ordered in the absence of testimony of at least one qualified expert witness that the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.

### **Additional Specialized Findings and Procedures**

- *Active Efforts and Serious Damage.* In any termination of parental rights proceeding involving an Indian child, the court shall make specific findings that:
  - The petitioner has proven beyond a reasonable doubt that active efforts have been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family and that these efforts have proved unsuccessful; and
  - Based on the testimony of at least one qualified expert witness, the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.
  - In reviewing a disposition in any ICWA child protection proceeding, the Court shall also determine whether Isanti County Family Services has exercised active efforts (as opposed to reasonable efforts).
- *Voluntary Termination of Parental Rights.* In a voluntary termination of parental rights in an ICWA case, the consent is not valid unless it is (1) executed in writing; (2) recorded before the judge; and (3) accompanied by the presiding judge's certificate that the terms and consequences of the consent were explained in detail and were fully understood by the parent or Indian custodian. The court shall also certify that the parent or Indian custodian fully understood the explanation in English or that it was translated into a language that the parent or Indian custodian understood. In addition:
  - Any consent to a termination of parental rights to an Indian child given prior to, or within ten days after, the birth of an Indian child shall not be valid.
  - Any consent to termination of parental rights by a parent of an Indian child may be withdrawn by the parent at any time prior to the time the final order terminating the parent's rights.
- *Invalidation Under ICWA.* An Indian child, parent, custodian, or tribe may seek to invalidate child protection proceedings if the requirements of ICWA are not followed. The procedures applicable to such an action are outlined in Rule 46.03 of the Rules of Juvenile Protection Procedure.

### **Burden of Proof**

- *Beyond a Reasonable Doubt.* In a termination of parental rights matter or other permanent placement matter, the standard of proof is beyond a reasonable doubt, as opposed to clear and convincing evidence.

**MN Statutes and Rules**

**Rule 2.01(21) – Definition of Qualified Expert Witness**

**Rule 3.03 – Indian Child Welfare Act’s Applicability**

**Rule 4.03 – Timeline**

**Rule 30.08 – Protective Care Determinations, Indian Child Ward**

**Rule 32.06 – Petitioner’s Notice Responsibility Under Indian Child Welfare Act**

**Rule 39.04, Subdivision 2(b) – Burden of Proof for ICWA Permanency Cases**

**Rule 39.05 – Decision Requirements**

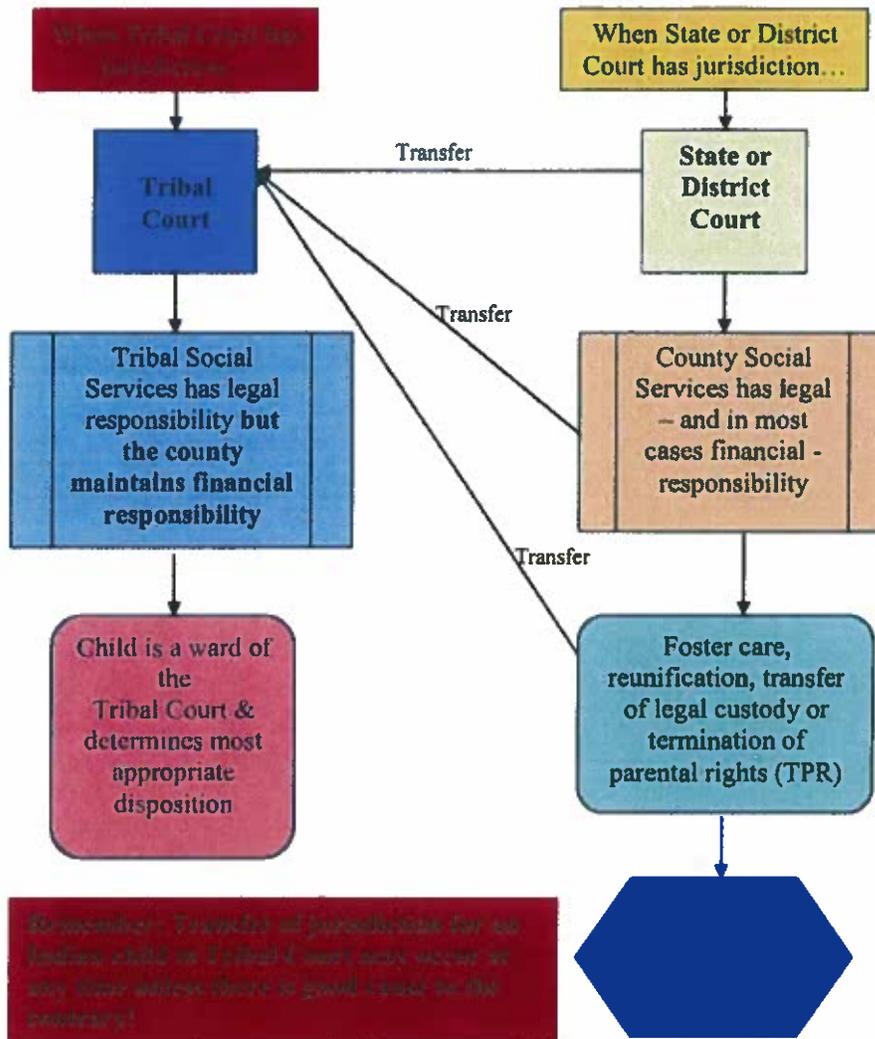
**Rule 42.08, Subdivision 3 – Voluntary Termination of Parental Rights in Matters Governed by the Indian Child Welfare Act**

**Rule 46.03 – Invalidation of Action Under ICWA**

**Rule 48 – Transfer to the Child’s Tribe**

8/29/2012

## JURISDICTION FLOWCHART



ISANTI COUNTY CHILDREN'S JUSTICE INITIATIVE  
Protocol Guidelines

**Private Child in Need of Protection or Services  
or Private Termination of Parental Rights**

Most Children in Need of Protection or Services and Termination of Parental Rights petitions are prepared and filed by the County Attorney as recommended by the Social Worker. However, Minnesota Statutes and the Juvenile Protection Rules authorize any individual to file a "pro se" CHIPS or TPR petition.

Any person wishing to file a "pro se" CHIPS petition should be encouraged to use the form developed by State Court Administration. The form is available on the Supreme Court public website: <http://www.courts.state.mn.us/ctforms/>. If the petition contains any information under Rule 8.04 that is inaccessible to the public, the petitioner shall file with the court the original petition and a copy of the petition from which the inaccessible information has been redacted.

A CHIPS petition filed by a party other than the responsible social services agency must also have the responsible social services agency as a participant in a CHIPS proceeding pursuant to Rule 22.01, subd. (c).

A TPR petition filed by a party other than the responsible social services agency must also have the responsible social services agency as a party in a TPR proceeding pursuant to Rule 21.01, subd 3(c).

After the person fills out the pro se petition, he or she must submit it to the Court Administrator. Before filing the petition, the Court Administrator must review the petition to determine whether it is complete. As part of this review, the Court Administrator must specifically determine whether the person has had contact with Isanti County Family Services (ICFS). If the person indicates that ICFS has not been contacted, the Court Administrator must reject the petition as incomplete and must not file the petition. If the person has contacted ICFS, the Court Administrator shall file the petition.

Pursuant to Juvenile Protection Rule 33.02, subd. 2(b)(4), within three (3) days of the filing of a "pro se" CHIPS or TPR petition, a Judge shall review the petition. The Judge shall not allow a petition to proceed if it appears that the petitioner is filing the petition for the sole purpose of trying to change custody between the child(rens)'s parents or if it fails to set forth the information required in Rule 33.02 subds. 1 and 2(b) (requirements for contents of a CHIPS petition).

If the Judge determines that the petition and attachments establish a prima facie case that a CHIPS or TPR matter exists and that the child is the subject of that matter, the Court shall set the matter for an Admit/Deny Hearing and shall direct the Court Administrator to serve a summons and notice.

If the Judge determines that the petition does not establish a prima facie case that a CHIPs or TPR matter exists, the Judge shall dismiss the petition without prejudice and the Court Administrator shall so notify petitioner.

The cost of service of a summons and petition filed by someone other than a non-profit or public agency shall be paid by the petitioner.

**Minnesota Statutes and Rules**

Minn.Stat. 260C.141, subd. 1

Minn.Stat. 260C.307

**Minnesota Rules of Juvenile Protection Procedure**

Rule 8.04

Rule 21.01, subd. 3(c)

Rule 22.01, subd. (c)

Rule 32.02, subd. 2(a)

Rules 33.02, subd. 1 and 2(b)(4)

Updated: 6/25/12

**ISANTI COUNTY CHILDREN'S JUSTICE INITIATIVE  
Protocol Guidelines**

**GLOSSARY OF ACRONYMS**

1. ADH- Admit/Deny Hearing
2. CA- County Attorney
3. CD- Chemical Dependency
4. CHIPS- Child in Need of Protection or Services
5. CJI- Children's Justice Initiative
6. CT- Court Trial
7. DHS- Department of Human Services
8. DSP- Disposition Hearing
9. EPC- Emergency Protective Care
10. GAL- Guardian ad Litem
11. ICFS- Isanti County Family Services
12. ICWA - Indian Child Welfare Act
13. LE- Law Enforcement
14. OHPP or OHP- Out-of-Home Placement Plan
15. PD- Public Defender
16. PPD - Permanent Placement Determination
17. PT- Pre-Trial
18. TPR- Termination of Parental Rights
19. VPA- Voluntary Placement Agreement

ISANTI COUNTY CHILDREN'S JUSTICE INITIATIVE  
Protocol Guidelines

**GLOSSARY OF TERMS**

**ADJUDICATION-**

Term used by the court when there is a finding that the child is in need of protection or services. Adjudication is the judge's decision to find that the child is in need of protection or services.

**ADMIT/DENY HEARING-**

Once a CHIPS petition is filed, then the parents have an opportunity to either admit or deny the allegations in the petition. If a party admits the allegations in the petition, then a case plan will be created by Family Services. If a party denies the allegations, then a trial will be scheduled. The trial must be scheduled within 60 days of the denial. At the trial, the parties are allowed to call witnesses and present evidence to the judge why they believe the allegations found in the petition are not true.

**BEST INTEREST OF THE CHILD-**

The Court makes decisions based upon what is best for the child. The best interest of the child is one of the standards the court uses to determine what plan to follow.

**BURDEN OF PROOF-**

The party that has to prove something to the Court has the burden of proof. In CHIPS cases, the petitioner, or typically the County, has the burden to prove what they allege in the petition. Neither the child nor the parent has the duty to explain unproven allegations.

**CHILD IN NEED OF PROTECTION OR SERVICES-**

There are a number of ways a child may be in need of protection or services. Currently, the laws of Minnesota set forth at least 16 different ways a child can be found to be in need of protection or services. A Petition must be filed in district court stating the particular reason for the request in each case. A district court judge will make the decision if a child in need of protection or services.

**CHIPS PETITION- (Child In need of Protection or Services)**

The name of the petition that is filed in district court that alleges why the child or children listed on the petition are in need of protection or services.

**CONCURRENT PERMANENCY PLANNING-**

When a child is placed out of the home for more than 60 days, Family Services is required not only to continue with reunification efforts but to also plan an alternative permanent placement for the child in case the parents are not successful in complying the out of home placement plan. In a case where the parents are not successful in having their child

returned then Family Services will be prepared to place the child somewhere else when the time is up for the parents.

**COURT TRIAL-**

Contested hearing to determine after all evidence submitted if child(ren) are in need of protection or services. Children in need of protection are to be given high priority to conform to firm timelines for permanency.

**DISCOVERY-**

Everyone who is a party has a right to obtain information from the other parties. The discovery process is how the information is obtained.

**DISPOSITIONAL HEARING -**

If a child is found to a child in need of protection or services, and the parents do not agree with the recommendations found in the case plan, then the court will have a dispositional hearing. At this hearing the parties will be able to tell the judge what they want to happen as a result of the child being found to be a child in need of protection or services.

**EMERGENCY PROTECTIVE CARE HEARING (EPC Hearing)-**

When a child is taken out of the home, the district court will conduct a hearing. At this hearing the judge will determine whether the child should remain in custody or be returned to his parents or guardian. If the child remains in custody of Isanti County Family Services the child will be placed in a foster home, relative home, shelter care, or other appropriate facility depending on the circumstances of the child.

**GUARDIAN AD LITEM-**

An individual appointed by the court to ensure that the best interest of the child is being met in the court proceedings. The guardian ad litem is not legal representation for the child, but rather advises the court of what the guardian believes is in the best interest of the child, not necessarily what the child believes should happen. The child's attorney (if of an age to express an opinion) will be responsible to advise the court what the child believes is in his best interests.

**INDIAN CHILD WELFARE ACT-**

If a child is an enrolled member of a tribe, then that tribe must be informed of the CHIPS petition and be given notice of any district court hearings.

**MOTION-**

A court document requesting that the Court takes some action on a request by any of the parties.

**OUT OF HOME PLACEMENT PLAN -**

If the child remains out of the home after the CHIPS petition is proved, then Isanti County Family Services must prepare a plan which allows the parents an opportunity to have the child returned to their custody. The plan will contain specific requirements for the parents to follow with the goal of reunifying the child with the parents. If the parents comply with the requirements of the plan, then the child will be returned home. If the child is under eight (8)

then the requirements of the plan must be completed within 6 months of the child placed out of the home. If the child is eight (8) or over, then the requirements of the plan must be completed within 12 months.

**PARENT-**

Means the birth or adoptive parent of a child.

**PARTICIPANT-**

A person who has limited rights in a CHIPS proceeding. A participant may receive notice, attend hearings and offer information to the court at the court's discretion. A participant may petition the court to become a party.

**PARTY-**

A person who has rights and is totally involved in the CHIPS proceeding. A party is entitled to receive notice, have legal representation, be present at all hearings, conduct discovery, bring motions, participate in settlement discussions, subpoena witnesses for hearings, make arguments, present evidence, cross-examine witnesses, request reviews, and appeal orders.

**PERMANENT FOSTER CARE-**

If a court determines that a parent did not comply with the placement plan, but also determines that termination of parental rights is not appropriate, then the court may order that the child live in foster care on a permanent basis. The parental rights of the parent are not terminated, but if the parent wants to seek custody of the child in the future, a civil court proceeding must be commenced.

**PLAN FOR PROTECTIVE SUPERVISION -**

If the child is returned home, then Isanti County Family Services must prepare a plan that offers services to the family with the child in the home. This plan may involve services such as requiring social workers into the home to help with parenting skills.

**PRE-TRIAL-**

Hearing is to be held at least 10 days before court trial. Court will confirm notices and counsel, settlement of issues; issues for court trial; stipulations or admissions; presence of child at trial; completion of discovery; pre-trial motions; witness and exhibit lists; date and length of trial.

**REASONABLE EFFORTS-**

A Placement Plan is prepared by the family service agency. That plan typically sets forth services that are to be provided to a family. The Court must make a determination at some point to determine if the services offered a family was reasonable.

**RELATIVE-**

Means not only those persons related by blood, such a brother, sister, uncle, aunt, grandparent, it may also be someone who is an important friend with whom the child has resided or had a significant relationship with.

**REVIEW HEARING AND/OR INTERMEDIATE DISPOSITIONAL HEARING-**

Periodical hearings set in front of the Court to review how the case is going.

**RIGHT TO AN ATTORNEY-**

The child, parent or guardian or custodian has the right to have an attorney represent the individual in all court proceedings. If a child over 10 years of age or the parents cannot afford an attorney they have a right to have an attorney appointed to them by the court.

**TERMINATION OF PARENTAL RIGHTS-**

If the parents do not comply with either the out of home placement plan or the plan for protective supervision prepared by family services, then the county may file a petition for the termination of parental rights. The laws of Minnesota list a number of circumstances where termination is appropriate.

**TRIAL HOME VISIT-**

This is a process that can be used to reunify a child with the parent or legal custodian as soon as reasonable and in a manner consistent with assuring the safety of the child. The family service agency maintains legal custody to allow close monitoring and prompt action to protect the child. The time the child is in a trial home visit arrangement does count toward timelines out of the home.

**VOLUNTARY PLACEMENT AGREEMENT-**

A voluntary placement agreement shall be used to provide the family service agency the legal authority to place a child in foster care when court is not involved. The agreement must be in writing and signed by both the child's parent and the agency.