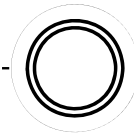


CHIPS 101

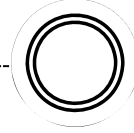
September 19, 2018



**JENNIFER CHRISTENSEN, JUVENILE
DIVISION MANAGER, CARVER COUNTY**

**DEBORAH SIMONSON, ASSISTANT
SCOTT COUNTY ATTORNEY**

Housekeeping



- If you have questions, please send them to us – we will try to answer them along the way!
- Handouts also found on the MCAA website, under Course Materials, then CHIPS Conference, then CHIPS 101

1. Permanency timelines

PERMANENCY TIMELINE FOR CHILDREN IN OUT-OF-HOME PLACEMENT

(Timeline shows maximum days for each event)

CHIPS Proceeding

	0	3	13	28	30	53	63	103	123	180	193	283	335*	365* (Permanency Proceeding Commenced)
Child Removed from home		Petition Served ¹ & EPC Hearing ² (ADH)	Admit Deny Hearing ⁴	Schedule Order Filed ⁵	Out of Home Place. Plan Filed ⁶	Pretrial Hearing ⁷	Trial ⁸	Disp. Rev. Hearing if Adj. & Disp. at ADH ⁹	Adj. Dispo. ¹⁰	Permanency Progress Review Hearing ¹¹	Disp. Review Hearing ⁹	Disp. Review Hearing ⁹	Perm. Petition Filed	

◆ If child not removed from home: Protective Services Case Plan³ must be filed with petition.

Permanency Proceeding (in order of statutory preference¹³)

Termination of Parental Rights (TPR) (leading to adoption)

Preferred permanency¹³:
Adoption through either
TPR or Consent to Adopt

Guardianship to Commissioner of Human Services – Consent to Adopt (GLCHS)

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

Permanent Custody to the Agency for Placement in Foster Care (PCA)

Temporary Legal Custody to the Agency for Specified Period of Time (TLCSP)

*Only two exceptions: The Admit/Deny Hearing on the perm. petition may be continued beyond month 12 ONLY if: (1) the child is on a trial home visit with the parent from whom the child was removed, then the ADH may be continued for the remaining length of the trial home visit (a THV may last no more than 6-months); or (2) at least one other CHIPS petition has been filed within the last 5 years and the child has been in out-of-home placement for 365 days as part of the prior petition(s), then, if the agency establishes a compelling reason, the court may continue the ADH on the permanency petition for up to 6 months.¹³

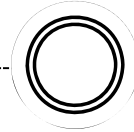
335	365	415	425	485	575
TPR Petition Filed ¹⁴	Admit/Deny Hearing ¹⁵	Pretrial Hearing ¹⁶	Trial Start ¹⁷	Findings Decision Filed ¹⁸	Post-TPR Review Hearing ¹⁹
335	365	415	425	485	575
Consent To adopt Filed ²⁰				Findings Decision Filed ²¹	90-Day Review Hearing ²²
335	365	415	425	485	575
TLC Petition Filed ²³	Admit/Deny Hearing ²⁴	Pretrial Hearing ²⁵	Trial Start ²⁶	Findings Decision Filed ²⁷	Post-TLC Review Hearing ²⁸
335	365	415	425	485	575
PCA Petition Filed ²⁹	Admit/Deny Hearing ³⁰	Pretrial Hearing ³¹	Trial Start ³²	Findings Decision Filed ³³	Annual Review Hearing ³⁴
335	365	415	425	485	575
TLCSP Petition Filed ²⁹	Admit/Deny Hearing ³⁰	Pretrial Hearing ³¹	Trial Start ³²	Findings Decision Filed ³³	Annual Review Hearing ³⁴

CHIPS TO PERMANENCY TIMELINE
Required Timing for Permanency Proceedings under Minnesota Statutes Chapter 260C
except CHIPS By-pass Cases and Voluntary Placements

Ann Ahlstrom
 Last Revised: February 2015

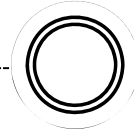
Month	Day	Event	Other
1	1	Child enters foster care by: 1. Law enforcement hold; or 2. Order for immediate custody; or 3. Voluntary placement agreement	Voluntary placement may occur by agreement under: 1. <u>Minn. Stat. Chapter 260D</u> (for children who are emotionally disturbed or developmentally disabled to access treatment); 2. <u>Minn. Stat. 260C.277</u> ; 3. <u>Minn. Stat. 260C.232</u> (youth age 18 and older) Each type of voluntary has unique court review and permanency requirements.
	3	Emergency Protective Care Hearing	If child is removed involuntarily, CHIPS petition is filed within 72 hours. <u>Minn. Stat. § 260C.176</u> ; <u>MRJPP 33.01</u> requires petition to be filed at or prior to EPC hearing
	3-13	Admit/Deny Hearing Scheduling Order	If ICWA case, service must take place 10 days prior to hearing; tribe may request up to 20 more days. <u>28 U.S.C. § 1911</u> ; <u>MRJPP 34.03, subd. 1(d)</u> ; Scheduling order must issue at or within 15 days of this hearing. <u>MRJPP 6.02</u>
	30	Out of Home Placement Plan filed	Court may approve plan based on contents of CHIPS petition, and implementation of approved plan may be basis for reasonable efforts determination. <u>Minn. Stat. § 260C.178, subd. 7</u> ; <u>MRJPP 37.02, subd. 4</u> Minnesota Assessment of Parenting for Children and Youth is completed by agency. <u>Minn. Stat. § 256N.24</u>
2 weeks to 14 months	14-53	Pretrial Hearing	Must be held at least 10 days prior to trial. <u>MRJPP 36.01</u>
	63, but not later than day 93	CHIPS Trial	CHIPS matters come to trial by day 63; county attorney determines whether criminal or juvenile case proceeds first in cases of egregious harm. <u>Minn. Stat. § 260C.103, subd. 2(d)</u> ; <u>MRJPP 39.02, subd. 1(d)</u>
	78 or within 15 days of conclusion of testimony at trial	Findings and Adjudication	Court may extend total time for findings to 30 days under <u>MRJPP 39.05</u> , if extension is in the interests of justice and best interests of child. <u>MRJPP 39.05</u> ; To extent practicable, disposition is entered same day as adjudication. <u>MRJPP 41.02</u> ; If disposition cannot be entered the same day, <u>R. 41.02</u> requires disposition to be ordered within 10 days of date petition is found proved. See also last paragraph of <u>Minn. Stat. § 260C.201, subd. 1(b)</u>
	Disposition		
	At least every 90 days as long as child is in foster care until there is permanency order	Review Hearings	At any review hearing: 1. Child may be returned home if parent has made progress on case plan and mitigated unsafe conditions to the point home is safe for the child; or 2. If parent is not making significant progress on case plan, agency can move to permanency. Hearings review parent(s) progress on case plan, afford an opportunity to correct problems with services, and address barriers to reunification; also afford opportunity to ensure parent knows consequences to both parent and child of failure to comply with case plan. <u>MRJPP 41.06, subd. 2</u>
6	180	Permanency Progress Review Hearing	See table on next page.
11	335	Permanency Pleadings filed	Permanency petition filed by month 11. <u>MRJPP 42.01, subd. 1(b)</u> ; and <u>42.04, subd. 2</u> ; see also <u>Minn. Stat. § 260C.503</u>
12	365	Admit/Deny Hearing	Finding required regarding whether the permanency petition status: a prima facie case that the agency has made reasonable efforts to reunify the child with the parent. <u>MRJPP 34.03, subd. 3 and 4</u> ; <u>Minn. Stat. § 260C.507(c)</u>
14	Not later than 425	Permanency Trial	Trial, if any, must commence within 60 days of admit/deny hearing. <u>MRJPP 39.02</u> ; <u>Minn. Stat. § 260C.509</u>
Month 14 or later	Within 15 days	Permanency Order issued by court	15 days runs from the conclusion of testimony. Court permitted to extend the time 15 days to a total of 30 days if the court finds an extension of time is required in the interests of justice and the best interests of the child. <u>MRJPP 39.05, subd. 1</u>
	Within 10 days	Post-trial motions, if any	10 days runs from service of notice of filing by court administrator; response is due within 5 days of service of post-trial motion; hearing on post-trial motion is within 10 days of date the post-trial motion is filed; decision on post-trial motion is required within 10 days of conclusion of hearing, if any. <u>MRJPP 45.01</u>
	Within 20 days	Notice of Appeal	20 days runs from service of notice of filing of the order: • finding petition proved and ordering permanency • finding petition not proved; or • disposing of the last post-trial motion. <u>MRJPP 47.02, subd. 2</u>

Venue



- **When a child is in need of protection or services, venue may be where the child is found, in the county of the child's residence, or in the county where the alleged conditions causing the child's need for protection occurred. Minn. Stat. §260C.121.**
- **May later transfer case to county of child's residence.**

Drafting your 1st CHIPS Petition

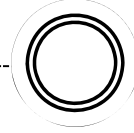


- **Required elements – Minn. Stat. § 260C.141, Minn. R. Juv. Prot. P. 33**
 - Facts which bring the child(ren) within the jurisdiction of the Court – establish need for protection or services
 - Name/DOB/county of residence, address, gender, and race of the child(ren)
 - Name/residence/address and race of the parent(s) (or legal guardian)
 - Name/residence/address of the participants
 - Statutory grounds
 - Designation as parties or participants

- **Statement regarding applicability of ICWA**
 - If you don't know whether ICWA applies – state that!
 - ICWA applies until affirmatively shown it does not

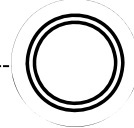
- **Rule 8**

Hearings



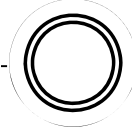
- **ACA may need to take the lead**
- **Don't rush the record**

Who should attend?



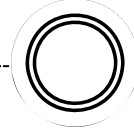
- **Minn. R. Juv. Prot. P. 21.01 - Parties:**
 - Child's GAL
 - Legal custodian
 - Indian custodian and tribe
 - Petitioner
 - Any person who intervenes, is joined or is deemed important to resolution
- **Minn. R. Juv. Prot. P. 22.01 - Participants:**
 - Child
 - Non-custodial parent, alleged/adjudicated/presumed father
 - Agency if not petitioner
 - Grandparents with whom child has lived within previous 2 years
 - Foster parents or relatives providing care for child or who require notice
 - Proposed permanent caregivers
 - Any other person deemed important

**McKenna's Law –
Minn. Stat. §260C.163, subds. 3 and 10**



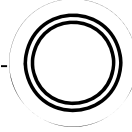
- **Mandates appointment of counsel for each child age 10 or older who requests counsel if the child is the subject of the CHIPS or is under guardianship of Human Services.**
 - Present at court at EPC hearing or Admit/Deny hearing.
 - Human Services notice to child of right to attorney and right to attend court – must be within 14 days of child's 10th birthday or the filing of the petition. (State Form)
 - Appoint attorney to represent child if child requests attorney or appoint temporary attorney to consult with child. (State Form)

72 Hour Health and Welfare Hold or Motion for Emergency Removal



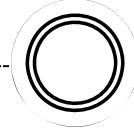
- **Minn. R. Juv. Prot. P. 28.02**
 - Ex Parte Motion for Immediate custody
 - Include prima facie showing that child is in surroundings or conditions that endanger child's health, safety or welfare and that responsibility for the child's care and custody shall be immediately assumed by agency
 - Continuation of child in custody of the parent or custodian is contrary to the child's welfare
- **LE 72 hour health and welfare hold**
 - Health, safety or welfare endangered
 - Child would not remain with parent or custodian

Emergency Protective Care Hearing



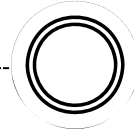
- If child was removed by emergency removal order or law enforcement hold – must be held within 72 hours.
- Advisories (Rule 30.05)
- Prima facie showing that CHIPS exists. Minn. R. Juv. P. Proc. 30.08, subd. 1.
 - Finding of Endangerment if returned to custody of parent or guardian
 - Continued Custody by parent is contrary to the welfare of the child.

Admit/Deny Hearing



- When child remains in custody of parent, no sooner than 3 days from filing and no later than 20 days after filing.
- Advisories if not previously given.
- Prima facie determination (if not already made)
- Advise of permanency timelines – 6 mo. and 12 mo.

Admissions

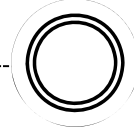


- **Admissions**
 - Written documents (notarized)
 - Swear parents in before admissions
 - ✦ There is case law on this!

- Parent may admit all statutory grounds in the petition or a partial admission.

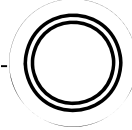
- Waiver of rights, trial, representation.

Court Orders



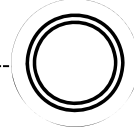
- **Required findings**
- **IV-E**
- **5 statements at the end of each order**

Case Plans – Minn. Stat. §260C.212



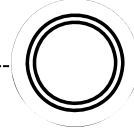
- Agency required to file within 30 days of the court order placing the child in foster care or the order for protective care, or transferring custody to the agency, whichever is earliest.
- Prepared jointly with parent (and tribe if ICWA).
- Must include:
 - reasons for placement which necessitated removal, and changes that need to be made for reunification
 - Description of services
 - Visitation plan
 - Reasonable or active efforts – reunification & concurrent plan

Cheat Sheets



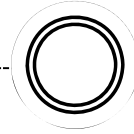
- 10 time bombs
- Party/Participant
- Fathers

Discovery



- **Electronic v. paper**
- **Redaction**
- **Who gets what**

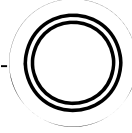
Trial



Shall commence within 60 days from the date of the EPC hearing or admit/deny hearing, whichever is earlier. Testimony shall conclude within 30 days from the start.

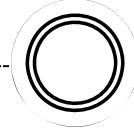
Generally, evidence that would be admissible in a civil trial is admissible in a juvenile protection matter.

Preparing for Permanency



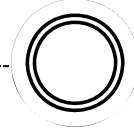
- Permanency Meetings with the Agency
- Relative Search
- Reasonable Efforts
- Working through obstacles
- Father's Adoption Registry

Hearings Leading Up to Permanency



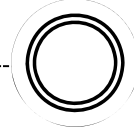
- Review Hearings
- Relative Search Review
- Permanency Progress Review Hearing

Review Hearings



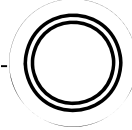
- If child is in foster care, court must review out-of-home placement plan and the placement every 90 days. Minn. Stat. §260C.202(a).
 - Review whether continued placement is necessary.
 - Review the out of home placement plan and modify as necessary.
 - Court report should provide an update as to what has occurred since the last hearing – updates on case plan requirements, child.

Relative Search Review



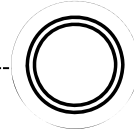
- **No later than 3 months after the child was placed in foster care, the court must review the agency's relative search efforts. Minn. Stat. §260C.202 (b).**
 - Continue efforts if necessary
 - Continue to engage relatives who have responded to the notice and any that have come to agency after notice was sent.

Permanency Progress Review Hearing



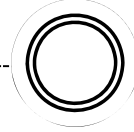
- Required when child out of home for 6 months
- Review parent's progress on case plan and provision of services by the agency.
- Court must make determination as to whether parent has maintained regular contact, whether they are complying with case plan and whether child would benefit from continuing relationship.
- If court makes determinations, 6 month extension.

Timelines



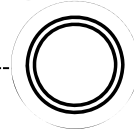
- **Five months – permanency meeting**
- **Six months – permanency progress review hearing**
- **Ten months – another permanency meeting**
- **Eleven months – deadline to file permanency petition**
- **Twelve months – Admit/Deny Hearing on permanency petition**

Calculating Time to Permanency



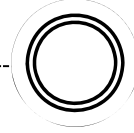
- The date of child's placement in foster care is the earlier of the first court-ordered placement or 60 days after a voluntary placement. Minn. Stat. §260C.503, subd. 3(a)
- Time spent ordered into the home of a non-custodial parent counts towards permanency.
- Time spent on a trial home visit counts towards permanency.
- If a child has been in foster care within the previous 5 years under one or more petitions, this time is cumulated – includes petitions from other counties.

Calculating Time cont'd



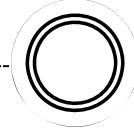
- If the child is on a trial home visit 12 months after the child was placed in foster care, or the home of a non-custodial parent, the agency may file a report with the court regarding child's and parent's progress on the trial home visit and the agency's reasonable efforts to finalize the child's safe and permanent return to the parent in lieu of filing a permanency petition. Minn. Stat. §260C.503, subd. 3(c).
- If the trial home visit is ended, must commence permanency proceedings no later than 30 days after the child's return to foster care.

Data Privacy



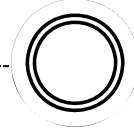
- All child protection records (held with in the Agency) are private.
 - They are however discoverable in CHIPS proceeding.
- Court records are presumed to be public. Minn. R. Juv. Prot. P. 8.01.
- Make sure you know Minn. R. Juv. Prot. P. 8.04 – see cheat sheet.
 - Make sure Forms 11.3 and 11.4 are being used when appropriate

Outside the Courtroom

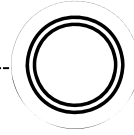


- **ICWA**
- **Changing tracks**
- **Team Meetings**

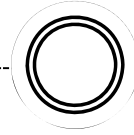
How to be a good CHIPS attorney



- Networking
- Shadowing another attorney
- CLEs
- Training to Agency and Law Enforcement

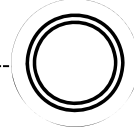


- **Read the Juvenile Protection Rules/Judge's Benchbook**
- **CJI Meetings**
- **Ask MCAA Juvenile Law Committee**



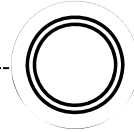
- **Read Appellate Court opinions**
- **Ask for templates**
- **Collaborate often with your agency**

2018 MCAA CHIPS Conference



**Thank you to Rachel Cornelius from Waseca
County and Megan Gaudette Coryell from
Nicollet County!!**

**DON'T BE
AFRAID TO
ASK
QUESTIONS!**



- **Please contact us if you have any questions! Even if we can't help you, we can help find someone who can!**
- **Jennifer Christensen – jchristensen@co.carver.mn.us**
- **Deborah Simonson – dsimonson@co.scott.mn.us**