


# CHIPS 101

September 19, 2018



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## 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

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### 1. Permanency timelines



**PERMANENCY TIMELINE FOR CHILDREN IN OUT-OF-HOME PLACEMENT**  
(Transfer dates represent dates for each event)

**CHIPS Proceedings**

Child Placement	Adopt	Schedule Out of Home	Transfer	Child Support	Adopt	Permanency	Child Support	Final
Adopt	30	30	30	30	30	30	30	30
Schedule Out of Home	30	30	30	30	30	30	30	30
Transfer	30	30	30	30	30	30	30	30
Child Support	30	30	30	30	30	30	30	30
Adopt	30	30	30	30	30	30	30	30
Permanency	30	30	30	30	30	30	30	30
Child Support	30	30	30	30	30	30	30	30
Final	30	30	30	30	30	30	30	30

**SETP Proceedings**

Child Support	Adopt	Schedule Out of Home	Transfer	Child Support	Adopt	Permanency	Child Support	Final
Child Support	30	30	30	30	30	30	30	30
Adopt	30	30	30	30	30	30	30	30
Schedule Out of Home	30	30	30	30	30	30	30	30
Transfer	30	30	30	30	30	30	30	30
Child Support	30	30	30	30	30	30	30	30
Adopt	30	30	30	30	30	30	30	30
Permanency	30	30	30	30	30	30	30	30
Child Support	30	30	30	30	30	30	30	30
Final	30	30	30	30	30	30	30	30

**Termination of Parental Rights (TPR) (Pending to adoption)**

Child Support	Adopt	Schedule Out of Home	Transfer	Child Support	Adopt	Permanency	Child Support	Final
Child Support	30	30	30	30	30	30	30	30
Adopt	30	30	30	30	30	30	30	30
Schedule Out of Home	30	30	30	30	30	30	30	30
Transfer	30	30	30	30	30	30	30	30
Child Support	30	30	30	30	30	30	30	30
Adopt	30	30	30	30	30	30	30	30
Permanency	30	30	30	30	30	30	30	30
Child Support	30	30	30	30	30	30	30	30
Final	30	30	30	30	30	30	30	30

**Guardianship to Commissioner of Human Services - Consent to Adopt (GLCB)**

Child Support	Adopt	Schedule Out of Home	Transfer	Child Support	Adopt	Permanency	Child Support	Final
Child Support	30	30	30	30	30	30	30	30
Adopt	30	30	30	30	30	30	30	30
Schedule Out of Home	30	30	30	30	30	30	30	30
Transfer	30	30	30	30	30	30	30	30
Child Support	30	30	30	30	30	30	30	30
Adopt	30	30	30	30	30	30	30	30
Permanency	30	30	30	30	30	30	30	30
Child Support	30	30	30	30	30	30	30	30
Final	30	30	30	30	30	30	30	30

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

Child Support	Adopt	Schedule Out of Home	Transfer	Child Support	Adopt	Permanency	Child Support	Final
Child Support	30	30	30	30	30	30	30	30
Adopt	30	30	30	30	30	30	30	30
Schedule Out of Home	30	30	30	30	30	30	30	30
Transfer	30	30	30	30	30	30	30	30
Child Support	30	30	30	30	30	30	30	30
Adopt	30	30	30	30	30	30	30	30
Permanency	30	30	30	30	30	30	30	30
Child Support	30	30	30	30	30	30	30	30
Final	30	30	30	30	30	30	30	30

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

Child Support	Adopt	Schedule Out of Home	Transfer	Child Support	Adopt	Permanency	Child Support	Final
Child Support	30	30	30	30	30	30	30	30
Adopt	30	30	30	30	30	30	30	30
Schedule Out of Home	30	30	30	30	30	30	30	30
Transfer	30	30	30	30	30	30	30	30
Child Support	30	30	30	30	30	30	30	30
Adopt	30	30	30	30	30	30	30	30
Permanency	30	30	30	30	30	30	30	30
Child Support	30	30	30	30	30	30	30	30
Final	30	30	30	30	30	30	30	30

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

Child Support	Adopt	Schedule Out of Home	Transfer	Child Support	Adopt	Permanency	Child Support	Final
Child Support	30	30	30	30	30	30	30	30
Adopt	30	30	30	30	30	30	30	30
Schedule Out of Home	30	30	30	30	30	30	30	30
Transfer	30	30	30	30	30	30	30	30
Child Support	30	30	30	30	30	30	30	30
Adopt	30	30	30	30	30	30	30	30
Permanency	30	30	30	30	30	30	30	30
Child Support	30	30	30	30	30	30	30	30
Final	30	30	30	30	30	30	30	30

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Code	Case	Case
10	Adoption	...
15	Child Abuse	...
20	Child Support	...
25	Custody	...
30	Domestic Violence	...
35	Guardianship	...
40	Intervention	...
45	Parenting Plan	...
50	Prevention	...
55	Protection	...
60	Residential	...
65	Service	...
70	Termination	...
75	Wardship	...
80	Welfare	...

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### 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.

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### Drafting your 1<sup>st</sup> CHIPS Petition

- Required elements – Minn. Stat. § 260C.141, Minn. R. Juv. Prot. P. 33
  - o Facts which bring the child(ren) within the jurisdiction of the Court – establish need for protection or services
  - o Name/DOB/county of residence, address, gender, and race of the child(ren)
  - o Name/residence/address and race of the parent(s) (or legal guardian)
  - o Name/residence/address of the participants
  - o Statutory grounds
  - o Designation as parties or participants
- Statement regarding applicability of ICWA
  - o If you don't know whether ICWA applies – state that!
  - o ICWA applies until affirmatively shown it does not
- Rule 8

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**Hearings**

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

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**Who should attend?**

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- 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

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

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- 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 10<sup>th</sup> 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)

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**72 Hour Health and Welfare Hold or Motion for  
Emergency Removal**

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- **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

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**Emergency Protective Care Hearing**

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- **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.

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**Admit/Deny Hearing**

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- **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.**

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**Admissions**

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- **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 or rights, trial, representation.

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**Court Orders**

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

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**Case Plans – Minn. Stat. §260C.212**

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- 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

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### Cheat Sheets

- 10 time bombs
- Party/Participant
- Fathers

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### Discovery

- Electronic v. paper
- Redaction
- Who gets what

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### 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.

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### Preparing for Permanency

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

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### Hearings Leading Up to Permanency

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

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### 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.

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**Relative Search Review**

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- 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.

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**Permanency Progress Review Hearing**

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- 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.

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**Timelines**

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- 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

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### 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.

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### 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.

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### 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

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**Outside the Courtroom**

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- ICWA
- Changing tracks
- Team Meetings

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**How to be a good CHIPS attorney**

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

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**Read the Juvenile Protection Rules/Judge's Benchbook**

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

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

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2018 MCAA CHIPS Conference

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

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

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- 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](mailto:jchristensen@co.carver.mn.us)
- Deborah Simonson – [dsimonson@co.scott.mn.us](mailto:dsimonson@co.scott.mn.us)

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