



Post Permanency 101

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Housekeeping

- If you have questions, please interrupt and ask them – we will try to answer them along the way! You can also send them to us if you would like!
- Handouts also found on the MCAA website, under Course Materials, then CHIPS Conference, then Post Permanency 101.

Permanency

- Termination of Parental Rights and Adoption
- Transfer of Permanent Legal and Physical Custody
- Permanent Custody to the Agency
- Temporary Custody to the Agency, not to Exceed One Year

What happens next?

Transfer of Guardianship to Commissioner

- Permanency proceedings resulting in transfer of guardianship to the Commissioner of Human Services:
 - TPR
 - Consent of Parent to Adoption
 - Transfer of guardianship when both parents (or only known legal parent) are deceased.
- **Minn. Stat. §§ 260C.607-.637**

Transfer of Guardianship to Commissioner

- Following order for guardianship to the Commissioner, the court retains jurisdiction:
 - Until the child is adopted, or
 - Through the child's minority, or
 - Until the child becomes 21 if continuing in, or re-entering foster care under conditions of Minn. Stat. § 260C.451
- Appointment of GAL and child's attorney continues until adoption decree is entered.

Reasonable Efforts to Finalize Adoption

- Must make reasonable efforts to make placement in home of relative or foster parent who will commit to being a permanent resource. Minn. Stat. § 260C.212, subd. 2.
- Must make reasonable efforts to finalize adoption:
 - Use age-appropriate strategies
 - Use “10 best interests factors”
 - Complete or update relative search
 - Update/complete social and medical history of child
 - ICPC
 - Sibling placement
- Additional efforts when no identified resource

Review of Progress Toward Adoption

- The Court conducts review hearings cases every 90 days to determine the progress made towards finalizing permanency for the child(ren).
 - May be more frequent if would assist in finalization.
 - May be less frequent.

Content of Review

- Agency's reasonable efforts to finalize adoption
- Child's current OHPP to ensure child receiving all services and supports required to meet needs related to:
 - Placement
 - Visitation and contact with sibling
 - Visitation and contact with relatives
 - Medical, mental and dental health
 - Education
- Agency's planning for child's independent living if child is 14+

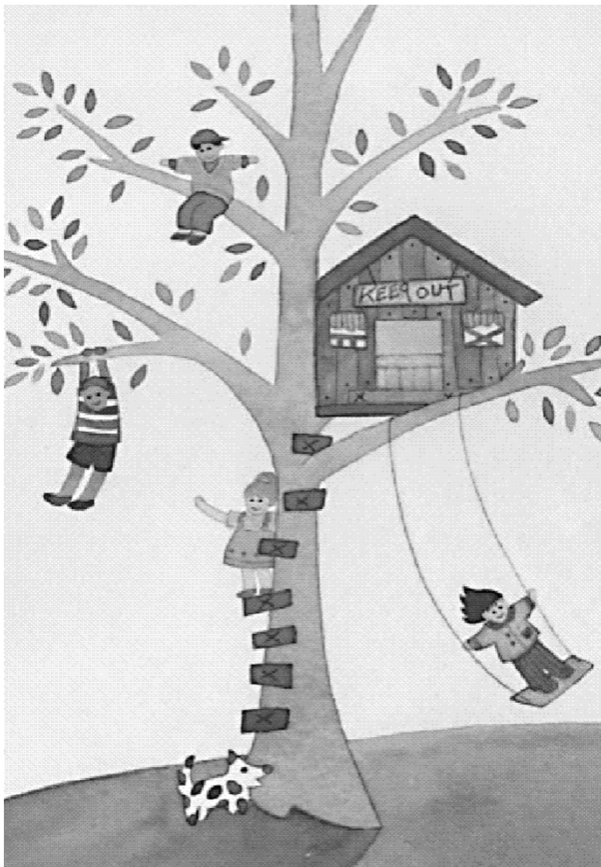
Siblings - Definition

- Have one or both parents in common through blood, marriage or adoption
- As defined in tribal code or custom
- Who would have been considered siblings but for TPR, suspension parental rights, or other disruption of parental rights such as death of parent
- Minn. Stat. § 260C.007, sub. 32
- Full, half or step; Minn. Stat. § 260C.178, subd. 1(k)

Siblings

- Statutes that govern sibling placement and related issues:
 - Minn. Stat. § 260.012(e)(4)
 - Minn. Stat. § 260C.007, subd. 32
 - Minn. Stat. § 260C.178, subd. 1(k)
 - Minn. Stat. § 260C.193, subd. 3(g)
 - Minn. Stat. § 260C.212, subd. 2(d)
 - Minn. Stat. § 260C.617

EXCEPTIONS



- Not in best interests of siblings
- Contrary to safety or well-being of a sibling
- Not possible after reasonable efforts
- Child in placement for treatment
- Child placed with previously noncustodial parent
- Minn. Stat. 260C.193, subd. 3(g). 260C.212, subd. 2(d)

Placement Preferences

Consider placement, consistent with child's best interests,
with

- Relative

- Important friend with whom child has
resided or had significant contact

- Minn. Stat. 260C.212, subd. 2(a)

RELATIVE - Definition



- Related to child by blood, marriage or adoption
- The legal parent, guardian or custodian of the child's sibling(s)
- Important friend
- Minn. Stat. § 260C.007, subd. 27

Sibling Separation for Adoption

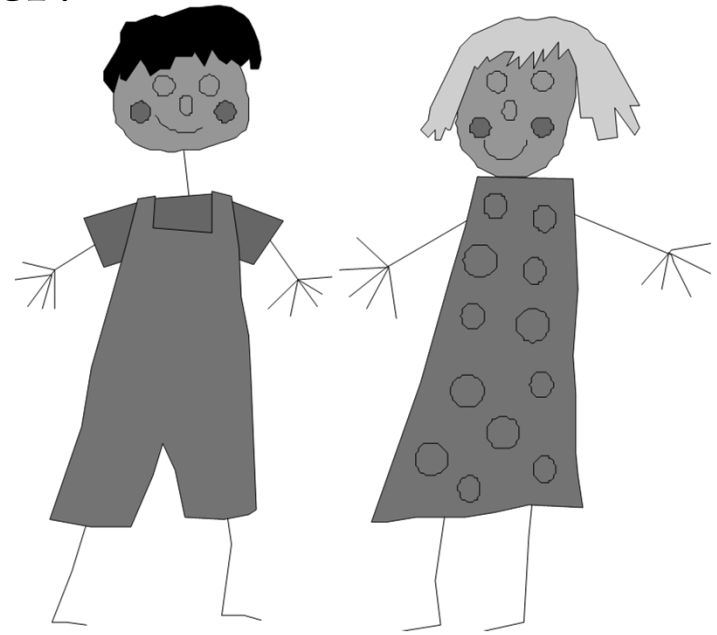
- Court must review proposal to separate for adoption
- Must find agency made reasonable efforts to place sibs together
- And further efforts would significantly delay adoption & not be in best interest of a sibling
- Or not in best interests of a sibling to be placed together after reasonable efforts to place together
- Minn. Stat. § 206C.617

Notice of Request to Separate Siblings for Adoption

- To GAL, child's attorney & Tribe
- To foster, adoptive parent of child
- To foster, adopting or adoptive parent of siblings
- To relatives with permanent legal & physical custody of sibling(s)

Sibling Separation Placement Issues

- Separate sibs to place with relative(s)?
- Place with relative or adoptive parent of sib?
- How long to recruit for sibs together?
- Recruit for sibs together and separately?



Sibling Separation Placement Issues

- Deny adoption without Contact Agreement for sibs?
- Sibling over 14 refuses adoption?
- Other party wants separation?
- Parent does Consent to Adopt for one sibling
- Consider placement with parent of half-sibling?

Adoptions

- Must have Adoption Placement Agreement (APA) – before filing adoption petition.
- Notification requirements
- Adoption petition
 - County may petition
 - Adoptive parent may petition
 - Adoption petition generally must be filed within 9 months of APA
 - Petition must be captioned in legal name of child and be entitled “Petition to Adopt Child under the Guardianship of the Commissioner of Human Services.”
 - Both spouses generally must sign petition and be willing to adopt
 - Highly confidential

Contested Adoptions

- Minn. Stat. § 260C.607, subd. 6
- Motion may be brought at any time, but no later than 30 days after notice of APA, by:
 - Relative
 - Foster parent
 - Child
 - GAL
- Requirements:
 - Approved adoption home study
 - Resident of MN for 6 months
 - Qualifying non-resident (has approved home study)
- Must make prima facie showing that “agency has been unreasonable in failing to make the requested adoptive placement.”

Evidentiary Hearing

- Agency goes first
- Moving party has burden of proof – by preponderance of the evidence – to show unreasonableness
- If court finds unreasonableness, court may order agency to make adoptive placement
- Order may be appealed

Following TPLPC - Northstar

- Northstar Case
 - If you have not already received a determination regarding eligibility for Northstar Kinship Assistance, the court may “defer” finalization of the order transferring permanent legal and physical custody to a relative until such time as the determination is made.
 - Other required findings:
 - Transfer of permanent legal and physical custody and receipt of kinship assistance is in the child’s best interest.
 - Adoption is not in best interest based on the determinations in the kinship placement agreement and the agency made efforts to discuss adoption with the parent.
 - Reasons to separate siblings (if applicable)

Northstar Care for Children Act

- Authorizes certain benefits to support a child in need who is served by the Minnesota child welfare system.
- Stable benefits available to caregivers to ensure that the child's needs can be met, whether the child's situation and best interests call for temporary foster care, transfer of permanent legal and physical custody to a relative, or adoption.
- Focuses on the child's needs and strengths, and the actual level of care provided by the caregiver, without consideration for the type of placement setting.

Northstar Kinship Assistance – Minn.

Stat. §256N.02, subd. 11

- Medical coverage and reimbursement of nonrecurring expenses associated with obtaining permanent legal and physical custody of a child, and may include financial support provided under agreement with the financially responsible agency, the commissioner, and the relative who has received a transfer of permanent legal and physical custody of a child.
- Financial support may include a basic rate payment and a supplemental difficulty of care rate to assist with the cost of caring for the child.
- Most will qualify for Medical Assistance.

Northstar Kinship Assistance – Eligibility

- Judicial determination under section 260C.515, subd. 4, that a TPLPC to a relative is in the child's best interest.
- In addition, child must:
 - Have been removed from the child's home pursuant to a VPA or court order;
 - **Have resided with the prospective relative custodian who has been a licensed child foster parent for at least six months or received an exemption from this requirement;
 - Meet the agency determinations regarding permanency requirements in subd. 2;
 - Meet the applicable citizenship and immigration requirements
 - Child must have been consulted regarding TPLPC if 14 years old or will reach 14 before finalization;
 - Have a written, binding agreement among the caregivers, Agency, & DHS PRIOR to the transfer.

Northstar Kinship Assistance

Minn. Stat. § 256N.25. Agreements.

- (a) In order to receive Northstar Kinship assistance or adoption assistance benefits on behalf of an eligible child, a written, binding agreement between the caregiver or caregivers, the financially responsible agency, . . . and the commissioner must be established *prior to finalization of the . . . TPLPC*. (emphasis added)
 - The effective date of the Northstar Kinship Assistance agreement must be the date of the court order that transfers permanent legal and physical custody to the relative or the date the Agreement indicates it is effective.
 - Termination or disruption of the foster care placement prior to assignment of custody makes the agreement with the caregiver void.

DHS Bulletin #15-68-15

“For a prospective relative custodian to receive benefits on behalf of an eligible child, a written, binding Northstar Kinship Benefit Agreement is negotiated in consultation with the relative custodian. The Northstar Kinship Benefit Agreement must be established and signed by all parties prior to finalization of the transfer of permanent legal and physical custody.”

DHS Bulletin #15-68-15

“The Northstar Kinship Assistance Benefit Agreement must be signed by all parties, including the relative custodian, responsible agency and the commissioner, prior to a court order transferring permanent legal and physical custody to a relative under Minnesota Statutes section 260C.515, subdivision 4.”

Eligibility Cont'd

- In addition to the above requirements, the child's prospective relative custodian or custodians must meet the applicable background study requirements.

Other Required Findings

- A determination that reunification and adoption are not appropriate permanency options for the child.
- A determination that the child demonstrates a strong attachment to the prospective relative custodian and the prospective relative custodian has a strong commitment to caring permanently for the child.
- Signing of a kinship placement agreement, documenting the required determinations.

Review Hearings

- The Court will continue to review deferred cases every 90 days to determine the progress made towards finalizing permanency for the child(ren).
- Submit short form final Order upon approval of Northstar Kinship Assistance Agreement.

Finalization without Northstar

- If you are not requesting Northstar Kinship Assistance
 - May finalize TPLPC without Northstar assistance determination, but will be a permanent bar to receipt of assistance
 - Things to consider: is this in the child's best interest? What about 5 years from now?
- Further Court Hearings:
 - Court may maintain jurisdiction for purposes of ensuring appropriate services are delivered to the child and permanent legal custodian for the purpose of ensuring conditions ordered by the court related to the care and custody of the child are met.

Extended Foster Care

Foster Care benefits for eligible youth age 18 – 21.

Youth enters into a voluntary placement agreement with Human Services Agency.

If youth qualifies, the Human Services Agency shall provide continued services and foster care for the child, including those services necessary to implement an ILS plan.

Foster Care Benefits

For a youth age 18 – 21 years old, foster care benefits means:

- Payment for those foster care settings defined in section 260C.007, subdivision 18. Additionally, foster care benefits means payment for a supervised setting, approved by the responsible social services agency, in which a child may live independently.
- The particular setting, including those that are supervised, shall be selected by the agency and the child based on the best interest of the child.
 - Supervision in an approved setting must be determined on a case-by-case basis and be based upon the needs of the child.

Notice

Minn. Stat. § 260C.451, subd. 1

- Six months prior to the child's 18th birthday, social services shall provide written notice to any child in foster care, who cannot reasonably be expected to return home or have another permanency outcome, to the child's parents or legal guardian, the child's guardian ad litem, and the child's foster parents, of the availability of foster care up to age 21, if they qualify.
- Shall also update the child's independent living plan prior to the child's 18th birthday.

Extended Foster Care – Eligibility

A child in foster care immediately prior to turning 18 may continue in foster care past age 18 unless:

- The child can return home.
- The child is in placement because of a developmental disability or related condition and the child will receive adult mental health services.
- The child can be adopted or have permanent custody transferred to a relative prior to the child's 18th birthday.

Eligibility Cont'd

The child must also meet at least one of the eligibility criteria to receive foster care benefits:

- Completing secondary education or a program leading to the equivalent;
- Enrolled in an institution that provides post-secondary or vocational education;
- Participating in a program or activity designed to promote or remove barriers to employment;
- Employed for at least 80 hours per month; OR
- Incapable of any of the above due to a medical condition.

Re-Entry to Foster Care After 18 and Before 21

If child was under guardianship of the commissioner and left foster care without being adopted, the agency is required to enter into a VPA with the child (if the plan includes foster care) and to provide foster care as required to implement a plan to increase the child's ability to live independently and assist them with meeting the above eligibility requirements.

Re-Entry Cont'd

- If the child was not under the guardianship of the commissioner prior to reaching age 18, the child may ask to reenter foster care, and the agency shall provide foster care or other services if:
 - The child was in foster care for 6 consecutive months prior to the child's 18th birthday or left foster care within 6 months prior to their 18th birthday and was not discharged home, adopted or custody transferred; or
 - The child was discharged from foster care while on runaway status after age 15.

Required Court Review

- When a child asks to continue in or reenter foster care after turning 18 years of age, child and human services agency enter into a voluntary placement agreement, which must be in writing.
- If the child is currently not under court jurisdiction, the agency must make a motion to reopen the juvenile protection matter within 30 days of the agreement.
 - Court must review placement and determine whether it is in the child's best interest.
 - Out of home placement plan should be filed.
 - Hearing must be held within 30 days on motion to determine if in child's best interest.
 - Court reviews every 12 months as long as child remains in care.

Court Reviews

- The purpose of judicial reviews is for the court to ensure the social services agency is making reasonable efforts to finalize the permanent plan for the child.
 - Support the child to ensure stability and success in placement.
 - Plan for transition to adulthood and demonstrate progress on achieving those goals.
 - Developing and assisting with ILS Plan and goals.
 - Prepares the child for independence.
 - Develop a personalized transition plan during the 90 day period immediately prior to expected date of discharge.

Disruption in Extended Care - Termination

- When a child no longer meets the eligibility requirements and the social services agency intends to terminate the placement agreement:
 - Notice of termination 30 days prior to termination date is required to be given to child, child's attorney, foster care provider and guardian ad litem.
 - 15 days to file request for hearing and child cannot be discharged until hearing has been held.
 - Social services agency shall work a transition plan during that period of time..

THE END



Questions

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