DISTRICT COURT, FIRST JUDICIAL DISTRICT STATE OF COLORADO Court Address: 100 Jefferson County Parkway, Golden, CO 80401	
CHIEF JUDGE ORDER 12-____	▲ COURT USE ONLY ▲
ORDER ADOPTING AMENDED DISTRICT PLAN FOR HANDLING DEPENDENCY AND NEGLECT CASES	

The First Judicial District hereby adopts the attached plan for handling dependency and neglect cases pursuant to the requirements of Chief Justice Directive 98-02. This plan replaces the District Plan for Handling Dependency and Neglect Cases adopted on _____ by Chief Judge Order 12-_____.

Dated: July 15, 2015

_____
Stephen M. Munsinger
Chief Judge
First Judicial District

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Ann Gail Meinster
Juvenile Judge

_____
Marianne Marshall Tims
Presiding District Court Magistrate

FIRST JUDICIAL DISTRICT
CHIEF JUDGE ORDER 12-

SUBJECT: **District Plan for Handling Dependency and Neglect Cases**

To: **First Judicial District Judges and Magistrates, Clerk of Court, State Court Administrator's Office, Jefferson County Attorney, Jefferson County Division of Children, Youth and Families, Dependency and Neglect Contract Attorneys, Guardians *ad litem*, CASA and Best Practice Court team members**

From: Ann Gail Meinster **DATE:** _____
Presiding Juvenile Court Judge

I. Introduction

The procedure for handling Dependency and Neglect [D&N] cases in Jefferson County is set forth below. This plan incorporates the requirements of Colorado Statutes, Chief Justice Directives 98-02 and 96-08, the recommendations in the *Child Abuse and Neglect Cases in the Colorado State Courts* report dated June 27, 1996, the recommendations contained in *Child Abuse and Neglect in the Colorado Courts 1996-2000 – A Reassessment* dated September 2002, and the experiences of other jurisdictions in improving practice in D&N cases. This plan replaces the District Plan for Handling Dependency and Neglect Cases previously adopted.

The following is a statement of philosophy for this district that the Best Practice Courts team believes result in improved and expedited outcomes for children and families:

- Making every hearing a meaningful event with defined objectives and/or specific actions to be taken in order to eliminate delay and empower parents to participate in treatment planning and engagement in treatment at the earliest appropriate time.
    - From the Court's perspective, a meaningful hearing includes a full, brief update on family progress and clear next steps for the family and professionals. Each hearing should result in the next hearing date being set with statutory timelines.

- From each subject child's perspective, a meaningful hearing is a hearing during which his or her voice is heard, permanency is addressed, and includes a full, brief update of the entire case, the parents taking responsibility and accountability for engagement in services and treatment, and the Division providing and continuing to provide appropriate referrals and services for the family. The information is relayed in an age appropriate manner if the child or youth is present.

- From the respondent parents' perspective, parents should have access to counsel and an opportunity to be heard. They should leave Court with clear expectations for the next review period and an understanding of the reason for and date of the next hearing. Respondent parents shall be able to rely upon regularly scheduled parenting times, accountability of the professionals involved in the case and demonstration that reasonable efforts are being made to safely reunify the family as soon as possible or to maintain the children safely in the home.[1]

- Affording parties opportunities to collaborate and to resolve issues through negotiations at all stages of the case in a non-adversarial, problem-solving environment. This can be achieved in the form of mediation and facilitated meetings. If consensus cannot be achieved, parties shall be afforded a fair hearing by the judicial officer. With any evidentiary hearing or alternative dispute resolution meeting, family and counsel must have sufficient advanced notice to allow for meaningful participation.

- Focusing on returning each child to a safe, permanent home from the beginning of the case, or that each child remains home, and at every stage of the case with a family-focused/child-centered approach tailored to each family.

- Distribution of written Court orders to all parties following each hearing. Such orders shall be in clear and concise language that is understandable to parents and will include the next Court date. Counsel shall be available to answer any questions their client may have regarding the orders.

- This plan may result in the following benefits to all parties involved in the D&N process:

  - Expedited placement of children in safe and permanent homes.

  - Earlier development of family-specific treatment plans and quicker engagement of parents in their treatment plans.

[1] Reasonable efforts are defined at C.R.S. §§19-1-103(89) and 19-3-208. In cases where the Indian Child Welfare Act applies, the Division must demonstrate active efforts.

- Open discussions by parents regarding their treatment progress with their caseworker, attorney, the guardian *ad litem*, and the CASA volunteer.

- Greater understanding by parents regarding the dependency and neglect process and how to navigate the child welfare and community support systems for the benefit of their children.

- Greater participation in and commitment to treatment plans by parents who have participated in treatment plan development.

- Early identification of parents who are not succeeding in their treatment plan and the need for amended treatment plans or concurrent permanency planning.

- Reduced foster care costs to the parties and the County through reunification and appropriate kinship placement.

- Productive use of professionals' time and allocation of Division resources by offering a variety of settlement opportunities in order to resolve issues, thereby avoiding unnecessarily emotional, difficult or unproductive contested hearings.

- Efficient docket management, case tracking and data management.

- Accountability and an increased level of support and collaboration with all parties involved in the D&N process.

- The opportunity to gather all of a family's support system (personal and professional) into collaborative meeting in order to address children's and families' needs.

II. **Continuances**. At all stages of the case, continuances are granted only upon the showing of good cause and only when the best interests of the children will be served by granting the continuance. If the continued case involves one or more children who were under the age of six year at the time the Petition was filed, the Court shall make the particular findings set forth in C.R.S. §19-3-104, which provides that a hearing shall be rescheduled within 30 days. If a full hearing cannot be cleared, a status conference shall be held within the required 30 days.

III. **Participants to the Proceedings**

1. Required participants for all hearings

i. Judicial Officer
ii. Court Clerk
iii. Parents
iv. Counsel for parents
v. Guardian *ad litem*
vi. Assistant County Attorney
vii. Caseworker
viii. Court reporter or electronic recording device

2. May be necessary or appropriate parties
   ix. Able and willing relatives
   x. Court interpreter
   xi. Tribal representatives
   xii. Special respondents
   xiii. CASA

IV. Participation by Children in the Court Process. C.R.S. §19-3-702(3.7) requires that the Court consult with the child in an age appropriate manner regarding the child's permanency plan.

1. In response to the statutory requirement, and in light of the Section 8.3C.2c Title IV-E publication (see also Social Security Act – section 475(5)(C)(ii)), a procedure for permanency hearings has been developed by the Permanency Planning Committee of the Best Practices Team. The procedure is contained in Appendix C.

   a. We do not interpret the term "consult" to require a Court representative to pose a literal question to a child or to require the physical presence of the child at a permanency hearing. However, the child's views on the child's permanency or transition plan must be obtained by the Court for consideration during the hearing. For example, a report to the Court in preparation for a permanency hearing that clearly identified the child's view regarding the proposed permanency or transition plan for the child could meet the requirement. Also, an attorney, caseworker, CASA volunteer or guardian *at litem* who verbally reports the child's views to the Court could also meet the requirement.

   b. Information that is provided to the Court regarding the child's best interests alone are not sufficient to meet this requirement. Ultimately, if the Court is not satisfied that it has obtained the views of the child through these or any other mechanism, it could request that the child be in the courtroom, or make other arrangements to obtain the child's views on his/her permanency or transition plan.

   c. At each permanency hearing where the child or youth is not present, the judicial officer shall inquire of the caseworker, guardian *ad litem* and/or CASA volunteer

as to the child's input on their permanency plan. If no one is able to provide the Court with that information, the Court is responsible to make arrangements to receive that information to assure statutory compliance.

V. Verbal Orders

1. Purpose: To provide an *ex parte* process to allow the Court to determine whether children should be removed from their home or protective orders entered in order to protect children from possible abuse or neglect pending a hearing at which all parties are provided notice and an opportunity to be heard.

2. Participants: Judicial officers are available 24 hours per day by telephone. Participants include only the judicial officer and county attorney, caseworker, or supervisor.

3. Process/Critical Tasks: The following tasks will be completed by the conclusion of the hearing pursuant to C.R.S. §19-3-405:

   a. Findings regarding placement, including reasonable efforts to prevent the need for such where the children have been removed from the home or a finding that no reasonable efforts are necessary because of the emergency nature of the situation.

   b. Entry of protective orders as may be appropriate pursuant to the provisions of C.R.S. §19-3-405(2)(b) if children can be safely maintained in the home with such protection orders.

   c. Preliminary inquiry regarding the applicability the Indian Child Welfare Act.

   d. Set date and time for hearing within 72 hours of the entry of the order, excluding weekends and holidays.

   e. Order the notification of parents of the time set for the Temporary Custody Hearing and order for distribution of application for court appointed counsel (Form JDF 203).

   f. Entry and distribution of written findings and order.

   g. Notice to CASA of hearing date and time.

VI. Temporary Protective Custody Hearing/Advisement Hearing

1. Purpose: To make findings and enter protective orders regarding placement of the children. To ensure that all respondent parents are identified, given the opportunity to be represented by counsel, and to ensure their understanding of the D&N process, including potential consequences and permanency options. To facilitate early case assessment and provision of services.

2. Process

   a. Timing: In cases that are initiated by removal of a child, the Temporary Protective Custody hearing/Advisement hearing must be held within 72 hours of removal of the child with a court hold and 48 hours of the removal of the child based on a police hold. Timeframes are exclusive of weekends and court holidays.

   b. Critical Tasks. The following tasks will be completed at or before the Temporary Protective Custody hearing/Advisement hearing (also called "TPC" hearing).

      i. Appointment of a Guardian *ad litem;*

      ii. Assurance that respondents understand their rights and potential outcomes of the D&N Court process. This will be accomplished by written advisement (on the approved yellow advisement form) but the Court should explain the dual purposes of child protection and family preservation as well as impress upon the parents the importance of the timely resolution of the case for the benefit of the children;

      iii. Appointment of respondent parents' counsel, if eligible for appointment;

      iv. Filing and service of the Petition in Dependency and Neglect upon all parties who are present. If the Petition in Dependency and Neglect is not filed at the hearing, Petitioner shall file the Petition within 14 days and must serve the respondents or the case will be dismissed;

      v. Addition of any Special Respondents to the case;

      vi. Findings regarding placement, including reasonable efforts to prevent the need for such where the children have been removed from the home or a finding that reasonable efforts were not necessary because of the emergency nature of the case;

vii. Entry of protective orders as needed including orders regarding monitored sobriety, evaluations, release of familial information, provision of services, child-centered visitation issues including visitation with parents, siblings, and other persons of importance to the children;

viii. C.R.S. §§19-3-207(2) & (2.5) protective orders will automatically enter for all parties;

ix. Diligent inquiry regarding the paternity of children, the whereabouts of non-appearing parents and efforts to locate and notify them;

x. Diligent and ongoing inquiry regarding the applicability of the Indian Child Welfare Act, including providing and if possible completion of the purple ICWA advisement form;

xi. Order parents to provide information on relatives and other caregivers by filling out and filing of form JDF 559 (the orange form);

xii. Entry of orders to expedite the process of identifying able and willing relatives so that kinship placement may be considered and expedited;

xiii. Set date for Pretrial Conference within 7 to 14 days;

xiv. Appointment of a CASA volunteer when appropriate and available;

xv. Distribute Petition in Dependency and Neglect, Order Appointing Guardian *ad litem*, Order for Temporary Custody, Order of Protection, blue form of Order, and any other orders to all parties who are present.

c. Admission. Any parent who wishes to do so at the TPC may make a knowing and voluntary admission to the Petition in Dependency and Neglect upon full advisement. If an adjudication is entered, Dispositional hearing shall be set within 30 days for petitions including a child under the age of 6 years at the time of filing, or within 45 for children 6 years of age and older.

d. Visitation/Parenting Time. Except in extraordinary circumstances, where parenting time is ordered at the time of the TPC hearing, it shall be ordered pursuant to the parental contact protocol set forth in Appendix A.

e. Non-Appearing Respondents. In the event a respondent parent does not appear at the Temporary Protective Custody hearing/advisement hearing,

the County Attorney shall immediately arrange for personal service or seek to serve by certified mail or publication. Counsel shall be provisionally appointed for any non-appearing respondent parent who is a minor, incarcerated or hospitalized.

VII. Pretrial Conference/Advisement

1. Purpose: To enter a knowing and voluntary admission to one or more of the allegations of the Petition in Dependency and Neglect, or to deny the Petition and schedule an adjudicatory trial.

2. Process:

   a. Timing. Except in extraordinary circumstances, the Pretrial conference/ advisement hearing shall be heard within 7 - 14 days of the TPC.

      i. The adjudicatory hearing must be completed within 60 days of service of the Petition in Dependency and Neglect in cases governed by the Expedited Procedures for Permanent Placement (EPP) and within 90 days in all other cases.

      ii. In conformity with C.R.S. §19-3-104 and C.J.D. 96-08, the hearing may be continued for a non-appearing party if the Court determines that a party has not been served or if the absence is otherwise reasonable, if counsel has been unsuccessful in meeting with his/her client, or if a party is in need of counsel.

   b. Critical Tasks. The following actions will be taken at the TPC/advisement hearing:

      i. Advise parties of their rights;

      ii. Accept admissions or denials to the Petition in Dependency and Neglect;

      iii. Enter default judgment pursuant to C.R.C.P. 55 as to any non-appearing party who has been properly served;

      iv. If the children have been removed from the home, the Court shall make appropriate inquiries and findings regarding placement and whether reasonable efforts to prevent or eliminate the need for placement have been made;

      v. Order service on any party who has not been served;

vi. Make initial and/or ongoing inquiries regarding paternity and ICWA and assure the following have become part of the Court's file:

a) Yellow sheet – written advisement to respondent parents
b) Orange sheet – relative affidavit
c) Purple sheet – ICWA affidavit

c. Critical Tasks if the Petition in Dependency and Neglect is admitted.

i. An adjudicatory order will enter;

ii. The Dispositional/Treatment Plan hearing should be scheduled on the same day whenever possible pursuant to C.R.S. § 19-3-508(1). If it is not possible to hold the Dispositional/ Treatment Plan hearing the same day, it shall be scheduled within 30 days for EPP cases and within 45 days for all other cases.

d. Critical Tasks if the Petition in Dependency and Neglect is denied. If the Petition is denied, the following additional actions will occur:

i. An adjudicatory trial date will be set;

ii. An Adjudicatory Trial Procedure Order will be entered that includes the following:

a) Deadlines for discovery and for endorsement of witnesses and exhibits;

b) A date for a case management conference; and

c) A date for a status conference.

iii. A status conference will be set on the Division 10 docket at least one week prior to the adjudicatory trial. A mandatory case management conference shall be held prior to the status conference. A further pretrial conference hearing may be set upon request of any party.

iv. If the Petition is admitted prior to the adjudicatory trial, the Court will enter an adjudicatory order, and the Dispositional/Treatment Plan hearing shall be held on the same day whenever possible pursuant to C.R.S. § 19-3-508(1). If it is not possible to hold the Dispositional/Treatment Plan hearing on the same day, it should be scheduled within 30 days for EPP cases and within 45 days for all other cases.

v. If the Petition is not admitted before the trial date, the adjudicatory trial will occur. If the allegations in the Petition in Dependency and Neglect are not sustained at trial, the case or specific parties may be dismissed. If the allegations are sustained, the following actions will occur:

a) An adjudicatory order will enter;

b) The Dispositional/Treatment Plan hearing shall be held on the same day whenever possible pursuant to C.R.S. § 19-3-508(1). If it is not possible to hold the Dispositional/Treatment Plan hearing on the same day, it should be scheduled within 30 days for EPP cases and within 45 days for all other cases.

e. Alternatives to adjudication include petition for review of need for placement or deferred adjudications pursuant to C.R.S. §19-3-505(5) and informal adjustments pursuant to C.R.S. §19-3-501.

VII. **Dispositional/Treatment Plan Hearing**

1. Purpose. To enter a treatment plan that addresses the needs of the family and children and is designed to remedy the issues that caused the children to be declared dependent or neglected.

2. Process:

a. Timing. The dispositional hearing shall occur within 30 days of the date of the first adjudication in EPP cases and shall occur within 45 days of adjudication in all other cases.

b. Preparation.

i. An individualized treatment plan, designed to meet the specific needs of specific families, will be prepared by the caseworker, with input from each parent, unless the parent refuses to participate or is unavailable.

ii. As part of the treatment plan, the caseworker will complete the social history (14 questions) with input from each parent, unless the parent refuses to participate or is unavailable.

iii. The treatment plan will contain specific objectives, each listed separately, that need to be completed. Each objective will be specific, measurable, attainable, relevant and time bound.

iv. The treatment plan shall be submitted to the Court and counsel five calendar days in advance of hearing.

c. Critical Tasks. The following actions will be taken at the dispositional hearing:

i. The Court will inquire of the parties if there are any objections to the treatment plan as written.

ii. If there are no objections, the Court will review the terms of the treatment plan and find that the treatment plan as submitted, or amended, is reasonable, appropriate and capable of success within a reasonable period of time from the child's perspective.

1. The Court will advise the respondents of the potential consequences of not complying with the treatment plan, including the possibility of termination of parental rights.

2. The Court will advise the respondents of the benefits to the children and family of meaningful participation in the treatment plan.

3. The Court will enter the treatment plan as a Court order.

4. The Court will set the matter for permanency planning hearing within 90 days of the dispositional hearing, regardless of whether the case is an EPP case or not.

iii. If there are objections, the Court will advise the parties of their right to have a contested hearing on the matter.

1. If the respondent wishes to have a contested hearing, objections will be specifically noted on the record and a contested hearing will be set on the record. Otherwise, respondent shall file a written motion outlining the specific objections and the matter will be set for a contested hearing, on notice.

2. If the parties waive their right to hearing and want to make argument on the issue, the Court will hear the disputed issues and make judicial findings and orders adopting or amending the treatment plan.

iv. If the Division asserts that no reasonable treatment plan is devisable, the Court will require the Division to file a written motion and will set an evidentiary hearing on notice to determine, by clear and convincing evidence, whether no appropriate treatment plan can be devised.

VIII. **Review Hearing**

1. Purpose: To review the need for continued placement (if the child has been removed) and make findings about whether reasonable efforts have been made to reunify the family and prevent placement; to review progress on and the need for modification of the treatment plan; to review progress of the children and their well being in placement or at home and assess the need for services to the children; to update and review visitation or parenting time issues, protection orders and the continued appropriateness of the permanency goal; to address areas of concern, crisis or conflict; and to make findings on whether the Division has made reasonable efforts to finalize the permanency goals.

2. Process:

   a. Periodic Review Hearing. Following the dispositional hearing, the Court will hold review hearings as necessary or at the request of parties, generally every 30 to 90 days as long as there are not critical or emergent issues that merit more frequent reviews. Under no circumstances shall a child's case be reviewed less frequently than every 180 days, either in person or through routine (non-appearance) review.

   b. Review Reports. Following dispositional hearing, a written family services plan for review is required for all Court hearings (except for a pretrial conference) unless specifically waived by the judicial officer in advance.

      i. A written Family Services Plan Court report must be prepared by the caseworker, the caseworker shall submit a draft of the family services plan to his or her supervisor no less than seven days prior to the deadline for filing with the Court, and the report will be filed with the Court and served on the parties and counsel five calendar days prior to the Court date.

      ii. The report will include a brief statement of how the case was initiated, court history including removal history, an update on children's placement, education, visitation, medical and mental health, and diligent search efforts for parents or relative caregivers, a review of the treatment plan components and compliance, and a review of each of the pertinent actions set forth in section C below.

c. Critical Tasks. Some or all of the following actions will be taken at every review hearing:

i. If removal has occurred or placement is continued, the Court will make appropriate findings regarding placement and reasonable efforts to eliminate the need for placement;

ii. If removal has occurred or placement is continued, the Court will find whether reasonable efforts have been made to place a child in a timely manner in accordance with the permanent plan (P.L. 105-89);

iii. Determine the continued appropriateness of the permanency goal and target dates;

iv. Determine whether the treatment plans require modification in light of additional information or changed circumstances;

v. Review progress on treatment plan goals;

vi. If the child has been in placement for 15 of the last 22 months, consider whether there are compelling reasons that a motion for termination of parental rights should not be filed;

vii. Review a brief case summary of progress and the recommendations set forth by the Division;

viii. Set the next review date, or Permanency Planning Hearing, if applicable.

IX. **Permanency Hearing**

1. Purpose: To adopt a definitive permanent plan for each child and direct that significant steps be taken to implement the plan. Accordingly, the parties should be prepared to take whatever steps are necessary to finalize the permanency planning goal by the goal date established by the Court.

2. Process:

a. Timing.

i. In EPP cases, the permanency planning hearing must be held within 90 days of the dispositional hearing. In EPP cases, a child shall be placed in a permanent home no later than 12 months after the original placement out of the home unless the Court determines that

a placement in a permanent home is not in the best interests of the child at that time.

ii. In all other cases, the permanency planning hearing must be held within 12 months after the child has been removed from the home.

iii. Subsequent permanency hearings in all cases shall be held no later than every twelve months thereafter while the child remains in out-of-home placement, or more frequently as deemed necessary by the Court.

b. Notice. Written notice of the permanency hearing shall include a statement concerning the proposed permanent plan for each child who is placed out of the home. Such notice shall be served on the parties, counsel, relatives and foster parents who have the care of the child. A written permanency plan/court report and any proposed amendments to the treatment plan must be filed by the Division and served on above listed parties at least five calendar days prior to the Permanency Hearing.

c. Critical Tasks

Required Consultation with Child. Pursuant to C.R.S. §19-3-702(3.7), the Court must consult with the child in an age appropriate manner to determine the child's wishes regarding the permanency plan. "Age appropriate" consultation may be accomplished by the child's attendance in Court; by *in camera* conference with the Court; by face-to-face consultation or observation by the guardian *ad litem*, caseworker or CASA volunteer. A record must be made of all *in camera* conferences.

i. Permanency Goals. The Court shall enter a permanency goal as well as a deadline to achieve the goal. The Court shall order the Division to make reasonable efforts to finalize the permanency goal by the deadline. Possible permanency goals are (in the order of preference):

1. Remain home;
2. Return home;
3. Adoption by relative or non-relative;
4. Allocation of parental rights and responsibilities to an appropriate relative or non-relative;
5. Guardianship to an appropriate relative or non-relative;
6. Other planned permanent living arrangement (OPPLA) through long-term foster care;
7. Other planned permanent living arrangement (OPPLA) through emancipation.

d. Findings. If the child is placed out of the home, the Court shall make appropriate findings regarding placement and whether reasonable efforts to eliminate the need for placement have occurred. If supported by the evidence, the Court must find that the Division continues to make efforts to finalize the permanency plan. The Court must be provided with documentation of a compelling reason for establishing a permanency plan with the goal other than reunification, adoption or legal guardianship.

e. Concurrent Planning. C.R.S. §19-3-508(7) specifically authorizes efforts to place a child for adoption or with a legal guardian or custodian to be made concurrently with reasonable efforts to preserve and reunify the family.

f. Set Hearing. The Court will set the next hearing or review date within 180 days, either in person or through routine (non-appearance) review.

X. **Termination of the Parental-Child Legal Relationship**

1. Purpose: To obtain a judicial finding as to whether there are statutory grounds to sever the parent/child legal relationship and whether termination of the parent/child legal relationship is in the best interests of the child.

2. Process:

   a. Timing.

      i. The motion to terminate parental rights may be filed at any time following the dispositional hearing.

      ii. The termination motion shall be filed at least 30 days prior to the scheduled hearing pursuant to C.R.S. §19-3-602(1).

      iii. Termination hearings will be set within 120 days of the filing of a termination motion unless good cause exists to set beyond this timeframe.

      iv. After a motion to terminate parental rights is filed, the Court must advise parents of their rights. In termination actions, parents have a number of rights:

         1. Right to counsel
         2. Right to court-appointed counsel if the parent is indigent
         3. Right to a Guardian *ad litem* if the parent in a minor or deemed incompetent
         4. Right to a court-appointed independent expert, if indigent

5. Right to a hearing before a judge
6. Right to cross-examine witnesses
7. Right to testify on his or her own behalf
8. Right to subpoena witnesses to testify for the parent
9. Right to burden of proof on the movant
10. Right to proof by clear and convincing evidence
11. Right to appeal.

v. The motion for appointment of an expert witness must be filed within ten days after the motion to terminate parental rights is filed. If a parent-child interactional is also requested, the motion must include the Guardian *ad litem's* position;

vi. Expert reports must be distributed to all parties at least 15 days prior to the termination trial, as required by C.R.S. §19-3-607.

3. Critical tasks:

a. The Court will determine whether the statutory criteria for terminating the parent/child legal relationship have been met pursuant to C.R.S. §19-3-604. If the Indian Child Welfare Act applies, certain findings must be made beyond a reasonable doubt.

b. If the Court grants the motion to terminate parental rights, a post-termination hearing must be scheduled within 90 days pursuant to C.R.S. §19-3-606(1).

c. If the Court denies the motion, the Division will be ordered to continue making reasonable efforts to reunify the family.

d. The County Attorney's Office shall complete the proposed termination of parental rights within 14 days of the hearing.

e. Respondents have five days to file a motion for judicial review from the magistrate's findings, or 21days from the date the termination order is signed to file a notice of appeal to the Colorado Court of Appeals if the judge enters the ruling on the termination motion.

XI. **Post-Termination Review Hearing**

1. Purpose: To review the status and progress of the child and to review and amend, if necessary, the permanent plan in order to serve the best interests and needs of the child.

2. Process

   a. Timing. The post-termination review hearing, either in person or through routine (non-appearance) review, shall occur within 90 days of the order of termination of parental rights. Post-termination reports shall be filed by the Division and Guardian *ad litem* pursuant to C.R.S. §19-3-606.

   b. These reports shall be served on the remaining parties and counsel at least five calendar days prior to the hearing.

   c. The frequency of subsequent reviews or permanency planning hearings shall be set based upon the facts and circumstances of each case but in no event shall a subsequent review, either in person or through routine (non-appearance) review, be set further than 180 days from the post-termination review.

   d. Findings. The Court will determine if the permanency plan and goal date remain appropriate and whether reasonable efforts have been made to finalize the permanency goal by the goal date. If no adoption has occurred within a reasonable period of time and the Court determines that adoption is not feasible or appropriate, the Court may order that a plan be made immediately for an alternative long-term placement of the child;

   e. Setting. A review hearing, either in person or through routine (non-appearance) review, will be set within 180 days until the child has been adopted or achieved permanency and the case is dismissed.

XII. **Adoption Hearing**

1. Purpose: To provide a permanent legal home for the child that will serve the child's best interest and grant to the adoptive parents all of the rights and responsibilities of a parent pursuant to statute.

2. Process:

   a. Timing. The adoption hearing shall be held as soon as possible after the child becomes free for adoption. In the case of an order entered by a District Court Magistrate, if no motion for review is filed, the child is free for adoption 15 days after the entry of a written decree of termination of the parent-child relationship. If a motion for review is filed, the child is not free until a final ruling from the reviewing District Court Judge. In the case of an order entered by a District Court Judge, if no notice of appeal is filed, the child is free for adoption 22 days after the entry of a written decree of termination of the parent-child relationship or an order affirming the order of a magistrate that terminates the parent-child relationship. If an appeal is filed, the child is not free until a final

mandate is issued by the appellate court. In cases where a relinquishment petition is granted, the child is not available for adoption until the relinquishing parent fails to file a motion to set the final order of relinquishment aside within 45 days after an uncontested relinquishment order is entered.

b. Findings. When hearing an adoption petition for a child who is freed for adoption the Court will determine that:

   i. Either parental rights have been voluntarily relinquished or that the parent-child relationship has been involuntarily terminated and the appeal process is complete;

   ii. Fingerprint based criminal records checks of all adopting parents have been completed and show that the parent is not ineligible to adopt a child pursuant to the provisions of C.R.S. §§19-5-207(2.5)(a) and 19-5-208(5).

   iii. All required consents to adoption are provided and are genuine;

   iv. Home studies and/or court-ordered reports are properly reviewed and indicate that the adopting parents are of good moral character and have the ability to support and educate the child;

   v. Adoptive parents understand that adoption is permanent and irreversible;

   vi. In cases involving children with special needs, adopting parents have been advised of all the necessary services and special circumstances, including the adequacy of adoption subsidies, and an awareness of services and assistance that is available after the adoption;

   vii. The adoption by the petitioners will serve the best interests of the child.

c. Report of Adoption. The Report of Adoption shall be issued by the clerk to the Bureau of Vital Statistics.

XIII. **Conclusion**

The Court expects all parties and professionals in Dependency and Neglect cases to comply with the terms of this District plan for handling Dependency and Neglect Cases. Not all the timelines outlined in this plan are statutorily required. However, they are benchmarks established for the Juvenile Court of this District, are in the best interests of children and families and are expected to be successfully attained. This plan's effectiveness will be formally evaluated

annually or more frequently as needed based upon the goals outlined in the Introduction. Any comments or suggestions should be addressed, in writing, to the Juvenile Judge's Division staff.

_____
Ann Gail Meinster
Presiding Judge of the Juvenile Court
First Judicial District

_____
Stephen M. Munsinger
Chief Judge
First Judicial District

Appendix A

Visitation/Parenting Time Protocol

Appendix B

Discovery Protocol

Appendix C

Participation by Children in Court Proceedings

There are potential hardships in having children/youth attend the permanency hearings and potential issues regarding school attendance, fear of parents, fear of being "caught in the middle," concerns about setting up an uncomfortable dynamic between the child/youth and his/her parents, and general anxiety on the part of children/youth about being in court. Further, it may present an additional burden to those transporting children/youth, whether it be caseworkers, foster parents, CASAs or GALs and an increase in the length of hearings.

In response to these concerns, and in light of the Section 8.3C.2c Title IV-E publication (a subsection of the U.S. Department of Health and Human Services Child Welfare Policy Manual), those present agreed on the following procedures for permanency hearings:

1. GALs will meet with their client prior to the Treatment Plan and/or Permanency Planning hearings in order to prepare the child/youth and also assess whether the youth's participation is in his or her best interests.

2. Children/youth may also be considered for participation in other hearings and proceedings including Allocation of Parental Responsibilities hearings and Case Management Conferences when appropriate.

3. There is no minimum age for participation. The presumption will be that the child/youth will be allowed to come to court. This presumption can be rebutted by the caseworker or the GAL and may include, but is not limited to, such reasons as young age of the child/youth, mental state of the child/youth, developmental disability of the child/youth, or preference on the child's/youth's part to participate in another way.

4. GALs and caseworkers will work together to ensure that the children/youth know they have a right to be heard by the Court. They will be told that they have several options, including direct court attendance, letter, fax, or email to the court, or the GAL may produce an offer of proof. In the case where the child/youth wants to speak to the judge in a closed courtroom on the record, the GAL must file a motion; the judicial officer will distribute a summary of the conversation

5. If the GAL and caseworker disagree on the issue of whether a child/youth should attend a hearing, the GAL will make the final decision.

6. If a child/youth does not participate in a treatment plan or permanency planning hearing, the Court will inquire as to whether the child/youth was consulted and what his/her response was. The GAL will address the child's/youth's position in a report.

7. The statute requires that children/youth be consulted by the court for each permanency planning hearing.

8. The GAL and the caseworker shall be responsible for working with the treatment team to arrange for the child's/youth's transportation. CASA volunteers can be considered for transportation, even in cases where no CASA is assigned.

9. CASA volunteers may assist with children/youth waiting for their hearings. Cases where a child/youth is present will have priority in being heard. The order of priority will become: incarcerated, interpreter, child/youth, all other cases.

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