

Juvenile Court Time Table for Attaining Permanency

Day 0, Case Opening

Temporary Protective Custody. In response to calls from the Child Abuse Hotline, DCFS assigns a Child Protection Investigator to investigate allegations of child abuse or neglect. When the investigator determines that the child cannot remain safely at home, the investigator is authorized by law to take temporary protective custody of the child. When temporary protective custody is taken, the investigator must contact the State's Attorney's office and request the filing of a Petition for Adjudication of Wardship. The petition must be filed with the Court to initiate a proceeding under the Juvenile Court Act. After the petition is filed, the Court schedules a Shelter Care Hearing within 48 hours (excluding holidays and weekends) of the time temporary protective custody was taken.

Day 2

Shelter Care Hearing. A shelter care hearing is an emergency hearing to determine whether a child is at such immediate risk of serious injury that the child must be placed away from the parent or caretaker pending further juvenile court proceedings. Evidence is presented to support the allegations contained in the report of alleged child abuse or neglect (or additional allegations which have surfaced), the immediate safety of the child in the home, and the reasonable efforts made or community resources available that could allow the child to safely remain in the home pending further court action. If no resources or reasonable efforts could provide a safe environment for the child in the home, this is explained to justify the child's removal from the home.

When there are several children in the home, and they are not all taken into protective custody, the State must offer evidence to explain why the child or children remaining at home are not at risk of serious injury, or what reasonable efforts have prevented the need for placement of these other children.

In a shelter care hearing, the court is required to find:

- whether there is probable cause to believe that the child is abused, neglected or dependent;
- whether there is an immediate and urgent necessity to place the child away from his/her parents pending an adjudicatory hearing;
- whether reasonable efforts have been made to prevent placement away from the parent, or that such efforts would not prevent placement; and
- what is in the best interests of the child (i.e., placement, entry of an order of protection, etc.)

If the child is alleged to be abused, neglected, or dependent, the judge shall admonish the parents that if the child is made a ward of the court and custody or guardianship is awarded to DCFS, the parents must cooperate with DCFS, comply with the service plan, and correct the conditions which require the child to be in care, or risk termination of parental rights.

Prior to the Adjudicatory Hearing

The **Petition for Adjudication of Wardship** and Summons is served upon the parties as required in Sections 2-15 and 2-16 of the Juvenile Court Act. If the petition is amended prior to the adjudicatory hearing, the amended petition is served upon the party's attorney or mailed to the party's address of record. An amended petition adding grounds for parental unfitness and requesting termination of parental rights is served by publication only if a parent's identity or whereabouts are unknown. [The terms "petition" and "amended petition" refer only to pleadings filed before an adjudicatory hearing.]

DCFS will conduct a **diligent search** for a parent whose identity or whereabouts are unknown before the adjudicatory hearing. Once conducted, a diligent search is valid for 12 months and need not be repeated to support a notice by publication filed within that time period.

At the **first appearance** (if not done at shelter care hearing), parents are advised of their rights and the contents of the petition. Counsel is appointed for indigent parents, and the appointment will continue through the permanency hearings and termination of parental rights proceedings, subject to formal withdrawal or substitution of counsel. After the dispositional hearing the judge may require appointed counsel, other than counsel for a minor or counsel for the guardian ad litem, to withdraw his/her appearance if the parent fails to attend any subsequent proceedings.

The judge admonishes the parents that they must cooperate with DCFS, comply with the service plan, and correct the conditions which require the child to be in care, or risk termination of parental rights.

The guardian ad litem appointed for a child shall remain the child's guardian ad litem through the entire proceedings including permanency hearings and termination of parental rights proceedings. The guardian ad litem shall have at least one in-person contact with the child and a contact with one of the foster parents or caregivers before the adjudicatory hearing, one additional in-person contact with the child and a contact with one of the foster parents or caregivers before the first permanency hearing, and then once yearly contact thereafter.

A motion requesting **early termination of reasonable efforts** to reunify the child and parent may be filed by the State's Attorney, guardian ad litem or DCFS. The court shall grant this motion if the court finds that the parent has:

- 1) had his or her parental rights to another child of the parent involuntarily terminated;
or
- 2) been convicted of:
 - A) first degree or second degree murder of another child of the parent;
 - B) attempt or conspiracy to commit first degree or second degree murder of another child of the parent;
 - C) solicitation to commit murder of another child of the parent, solicitation to commit murder for hire of another child of the parent, or solicitation to commit second degree murder of another child of the parent;
 - D) aggravated battery, aggravated battery of a child, or felony domestic battery, any of which has resulted in serious bodily injury to the minor or another child of the parent; or
 - E) an offense in any other state the elements of which are similar and bear substantial relationship to any of the foregoing offenses;

unless the court sets forth in writing a compelling reason why terminating reasonable efforts to reunify the child and parent would not be in the best interests of that child.

The State may seek termination of parental rights in the petition or an amended petition if unfitness grounds exist. The Juvenile Court Act suggests expediting termination of parental rights when:

- 1) reasonable efforts to reunify are inappropriate or have been provided and were unsuccessful and there are aggravating circumstances including but not limited to those cases in which A) the child or another child of the child's parent was abandoned, tortured, or chronically abused; or B) the parent is criminally convicted of first or second degree murder of any child, attempt or conspiracy to commit first or second degree murder of any child, solicitation to commit murder, solicitation to commit murder for hire, or solicitation to commit second degree murder of any child, aggravated assault, or aggravated criminal sexual assault of any child; or
- 2) the parental rights of a parent with respect to another child of the parent have been involuntarily terminated; or
- 3) in extreme cases in which the parent's incapacity to care for the child, combined with an extremely poor prognosis for treatment or rehabilitation, justifies expedited termination of parental rights.

When placing the child in substitute care, DCFS shall consider **concurrent planning** so that if reunification fails or is delayed the child is in the best available placement to provide permanency.

90 Days

Adjudicatory Hearing. The adjudicatory hearing is the actual "trial phase" of the juvenile proceeding when the State must establish that the child was abused, neglected or dependent as alleged in the Petition for Adjudication of Wardship, and who caused the abuse, neglect or dependency.

The adjudicatory hearing must be held within 90 days of service on all the parties, with one opportunity for a continuance not to exceed 30 days. The hearing may not extend beyond the this time frame without consent of all the parties and approval of the court.

At the hearing, the judge specifically notes for the record the manner in which the parents received service. The court shall default any parent who fails to appear. The caseworker testifies about the diligent search conducted for any parent who has been served by publication and fails to appear.

The judge determines whether the preponderance of the evidence establishes that the child is abused, neglected or dependent. If so, the judge will specify, to the extent possible, the acts or omissions or both of each parent that form the basis of the court's findings. That finding shall appear in the order of the court. If the court finds that the child has been abused, neglected or dependent, the judge will admonish the parents to cooperate with DCFS, comply with the service plan, and correct the conditions which require the child to be in care, or risk termination of parental rights.

If the petition seeks an **expedited termination of parental rights**, the judge will also hear evidence on the unfitness grounds alleged in the petition and will make a special finding, by clear and convincing evidence, whether the parent is an unfit person because one or more of the grounds exists as to that parent.

After the adjudicatory hearing, all supplemental pleadings are filed as motions. The only motion requiring the service of process described in 2-15 and 2-16 is a motion to terminate parental rights of a parent for whom an order of default has been entered at adjudication and has not been set aside.

120 Days

Dispositional Hearing. The dispositional hearing is conducted within 30 days of the entry of the findings at adjudication, with one opportunity for continuance not to exceed 30 days if necessary to complete the dispositional report.

The judge considers reports submitted by the caseworker and other service providers, hears evidence regarding efforts made to reunify the child and family, the services delivered or to be

delivered under the family's service plan, placement alternatives (including return home), and the best interests of the child. The judge decides whether to make the child "a ward of the court."

When guardianship of the child is awarded to DCFS, the judge shall order the parents to cooperate with DCFS, comply with the service plan, and correct the conditions which require the child to be in care, or risk termination of parental rights.

When the child is restored to the custody of the parents, the judge shall order the parents to cooperate with DCFS and comply with the terms of an after-care plan, or risk the loss of custody of the child and possible termination of parental rights. The custody of the child shall not be restored to any parent whose acts or omissions or both have been identified as forming the basis for the court's finding of abuse, neglect or dependency until a hearing is held on the best interests of the child and the fitness of the parents to care for the child without endangering the child's health or safety, and the court enters an order that the parents are fit to care for the child.

The judge may select "**subsidized guardianship**" as the appropriate dispositional placement alternative when the criteria established by DCFS for a subsidized guardianship are met.

If the petition requested an **expedited termination of parental rights** and at adjudication the judge found, by clear and convincing evidence, that one or more of the unfitness grounds exists as to that parent, the judge shall hear evidence about whether reasonable efforts were inappropriate or were offered and were unsuccessful, and whether adoption is in the best interests of the child. When appropriate, the judge may enter an order terminating parental rights and appointing a guardian with power to consent to adoption for that parent without regard to the likelihood that the child will be placed for adoption.

The judge shall inquire of the parties of any intent to proceed with termination of parental rights of a parent whose identity or whereabouts remain unknown, or who was found in default at the adjudicatory hearing and has not obtained an order setting aside the default.

A motion requesting **early termination of reasonable efforts** to reunify the parent and child may be filed by the State's Attorney, guardian ad litem or DCFS. At any time after the dispositional hearing, the court shall grant this motion with respect to a parent of the minor if it determines that further reunification services would no longer be appropriate.

12 months

First Permanency Hearing. The first permanency hearing is conducted by a judge; subsequent permanency hearings may be heard by a judge or hearing officer.

The first permanency hearing must be held within 12 months of the date temporary custody was taken (unless the parental rights of both parents have been terminated at the dispositional hearing, or the court has granted a motion for early termination of reasonable efforts either of which will trigger

an earlier date for the first permanency hearing.) Subsequent permanency hearings must be held every 6 months thereafter, or more frequently if necessary. Once the service plan and permanency goal have been achieved, if the child remains in care, the case shall be reviewed at least every 6 months thereafter unless the child is placed in a stable, private guardianship and the judge determines that further monitoring is not necessary.

The time frames for permanency hearings are mandatory; permanency hearings may not be delayed in anticipation of a report from any source or due to an agency's failure to timely file its written report (not the service plan). The agency is required to file the most recent service plan prepared within the prior 6 months at least 14 days in advance of the hearing date.

At the permanency hearing, the judge reviews the service plan and reports submitted by the caseworker and service providers, hears evidence regarding efforts made to reunify the child and family, the services delivered or to be delivered under the family's service plan, placement alternatives (including return home), and the best interests of the child. The worker's report must detail what progress or lack of progress the parent has made in correcting the conditions requiring the child to be in care, whether the child can be returned home without jeopardizing the child's health, safety and welfare, and, if not, what permanency goal is recommended to be in the best interests of the child, and why the other permanency goals are not appropriate.

The worker must appear and testify at the hearing.

At the permanency hearing, the court shall determine the future status of the child. The court shall set one of the following permanency goals:

- A) The minor will be returned home by a specific date within five months;
- B) The minor will be in short term care with a continued goal to return home within a period not to exceed one year, where the progress of the parent or parents is substantial giving particular consideration to the age and individual needs of the minor.
- B-1) The minor will be in short-term care with a continued goal to return home pending a status hearing. When the court finds that a parent has not made reasonable efforts or reasonable progress to date, the court shall identify what actions the parent and the Department must take in order to justify a finding of reasonable efforts or reasonable progress and shall set a status hearing to be held not earlier than 9 months from the date of adjudication nor later than 11 months from the date of adjudication during which the parent's progress will again be reviewed.
- C) The minor will be in substitute care pending court determination on termination of parental rights;
- D) Adoption, provided that parental rights have been terminated or relinquished;
- E) The guardianship of the minor will be transferred to an individual or couple on a permanent basis provided that goals (A) through (D) have been ruled out;

- F) The minor over age 16 will be in substitute care pending independence;
- G) The minor will be in substitute care because he or she cannot be provided for in a home environment due to developmental disabilities or mental illness or because he or she is a danger to self or others, provided that goals (A) through (D) have been ruled out.

The court shall set a permanency goal that is in the best interests of the child. The court's determination shall include the following factors:

- 1) Age of the child
- 2) Options available for permanency
- 3) Current placement of the child and the intent of the family regarding adoption
- 4) Emotional, physical, and mental status or condition of the child
- 5) Types of services previously offered and whether or not the services were successful and, if not successful, the reasons the services failed
- 6) Availability of services currently needed and whether the services exist
- 7) Status of siblings of the minor

In a written order, the judge explains the goal selection and why preceding goals were ruled out. When the judge selects a permanency goal other than (A), (B), or (B-1), DCFS shall not provide further reunification services, but shall provide services consistent with the goal selected.

The court shall consider 1) the permanency goal contained in the service plan, 2) the appropriateness of the services contained in the service plan and whether those services have been provided, 3) whether reasonable efforts have been made by all the parties to the service plan to achieve the goal, and 4) whether the plan and goal have been achieved. If the court determines that the services in the plan will not facilitate achievement of the permanency goal, the court shall make written findings to this effect and may order DCFS to develop and implement a new service plan or to implement changes to the current service plan consistent with the court's findings. The new service plan shall be filed with the court within 45 days of the date of the order. Unless otherwise specifically authorized by law, the court is not empowered, in a permanency hearing, to order specific placements, specific services, or specific service providers to be included in the plan.

Following the permanency hearing the court shall enter a written order that sets forth 1) the future status of the child, including the permanency goal, and any order necessary to conform the child's legal custody and status to such determination; or 2) if the permanency goal cannot be achieved immediately, the specific reasons for continuing the child in the care of DCFS for short term placement. In the order, the court will also note whether the services required by the court and service plan within the prior 6 months have been provided, and if so their results (and if not, why not); whether the child's placement is necessary and appropriate to the plan and goal; and if the child is placed out-of-state, whether such placement continues to be appropriate and consistent with the health, safety and best interests of the child.

When the court restores custody of a child to the parent, the court shall order the parent to cooperate with DCFS and comply with the terms of an after-care plan developed for the child, or risk the loss of custody or possible termination of parental rights. As part of the after-care plan, the court may enter an order of protective supervision which may require that the parent take the child for a physical examination by a licensed physician at periodic intervals. The custody of the child shall not be restored to any parent whose acts or omissions or both have been identified as forming the basis for the court's finding of abuse, neglect or dependency until a hearing is held on the best interests of the child and the fitness of the parents to care for the child without endangering the child's health or safety, and the court enters an order that the parents are fit to care for the child.

When return home is not selected as the permanency goal, the State may file motion to terminate parental rights of any parent who has failed to make reasonable efforts to correct the conditions which led to the removal of the child or reasonable progress toward the return of the child or for whom any other unfitness ground for terminating parental rights exists. Alternatively, DCFS, the child, or a current foster parent or relative caregiver seeking private guardianship may file a motion for private guardianship.

15 months

DCFS shall request the State's Attorney to file a petition or motion for termination of parental rights if the child has been in foster care 15 of the most recent 22 months, unless:

- 1) the child is being cared for by a relative,
- 2) DCFS has documented in the case plan a compelling reason for determining that filing a termination petition is not in the best interests of the child, or
- 3) the court has found within the preceding 12 months that DCFS has failed to make reasonable efforts to reunify the child and family.

The date the child entered foster care is determined as the earlier of 1) the date of the order of adjudication or 2) 60 days after the date the child was removed from the parent.