

# Minnesota's Permanency Laws and Timeline: *Tools for Parents' Attorneys*

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**MINNESOTA  
JUDICIAL BRANCH**

*To provide justice through a system that  
assures equal access for the fair and timely  
resolution of cases and controversies.*

*MJB Mission Statement*

# Overview of Topics

- 1. Impact of abuse, neglect, and domestic violence on children – “through the eyes of the child”**
- 2. Child protection 12-month permanency timeline**
- 3. Tips for parent attorneys along the 12-month continuum**

**Impact of  
Abuse,  
Neglect and  
Domestic  
Violence on  
Children**



# Through the Eyes of the Child

- Paramount consideration in all juvenile protection proceedings is the health, safety, and best interests of the child
- Secure for each child under the jurisdiction of the court, the care and guidance, preferably in the child's own home, as will best serve the spiritual, emotional, mental, and physical welfare of the child

# Through the Eyes of the Child

## **Purpose of child protection court proceedings:**

- **Preserve and strengthen child's family ties whenever possible and in child's best interests, removing child from custody of parents only when child's welfare or safety cannot be adequately safeguarded without removal**
- **Focus on child's needs, but work with parents to correct conditions that lead to out-of-home placement**

**12-Month  
Child  
Protection  
Permanency  
Timeline**



# PERMANENCY TIMELINE FOR CHILDREN IN OUT-OF-HOME PLACEMENT

(Timeline shows maximum days for each event)

## CHIPS Proceeding

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

• If child not removed from home: Protective Services Case Plan<sup>3</sup> must be filed with petition.

## Permanency Proceeding (in order of statutory preference<sup>13</sup>)

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

**Preferred permanency<sup>13</sup>:**  
Adoption through either  
TPR or Consent to Adopt

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

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

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

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

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**Day 0**  
**365 days left**

# **Child Removed From Home**





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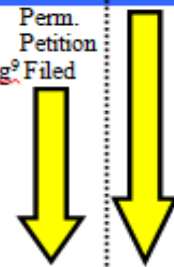
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# Child Removed from Home

- **Law enforcement (police power)**
- **Court order based on county's ex parte motion for emergency protective care**

Day 3  
362 days left

# CHIPS Petition Filed



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# CHIPS Petition

- **Must be filed prior to EPC hearing**
- **Must be personally served upon all parents, except alleged fathers**
- **Must be served at or prior to EPC hearing or 3 days before Admit/Deny, whichever is earlier**
- **Parent may request continuance if not served at least 3 days prior to ADH**

**Day 3**  
**362 days left**

# **Emergency Protective Care (EPC) Hearing**



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# EPC Hearing

- **Must be held within 72 hours of removal from home, excluding Saturdays, Sundays, and legal holidays**
- **Written notice not required**
- **Critical hearing**
  - ✓ **Judicial determinations (prima facie, endangerment, contrary to welfare, ICWA)**
  - ✓ **Assessments can be ordered**
  - ✓ **Admission or denial can be entered**



# EPC Hearing

- **Work with your county CJI Team to establish procedures so parents' attorneys are appointed and present for EPC Hearing**
- **Consider steps you will take if you aren't appointed in time to appear at EPC**

**Day 13**  
**352 days left**

**Admit /**  
**Deny**  
**Hearing**



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# Admit/Deny Hearing

- **If all parties agree, may be combined with EPC Hearing**
- **If child removed from home, must be commenced within 10 days of EPC Hearing**
- **If child not removed from home, must be commenced no sooner than 5 days and no later than 20 days after service of Summons and Petition on parties**
- **If Indian child, parent or tribe may request additional 20 days to prepare for ADH**

# Admit/Deny Hearing

- **If you didn't appear at EPC Hearing, what steps will you take if court made judicial determinations you think were wrong (e.g., prima facie)?**

Day 25

341 days left

# Scheduling Order



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# Scheduling Order

- **Must be issued at ADH or within 15 days of ADH**
- **Must include date or deadline for:**
  - ✓ **Filing of out of home placement plan**
  - ✓ **Pretrial and trial (if denial entered)**
  - ✓ **Permanency Progress Review Hearing**
  - ✓ **Date by which permanency petition must be filed**
  - ✓ **Date by which Admit/Deny Hearing on permanency petition must be commenced**



# Scheduling Order

- **Helps court, parties, and attorneys stay on track with permanency timeline**
- **Regularly review scheduling order with parent – clock is ticking**
- **Opportunity for parent to request additional services and/or reasonable or active efforts by the county if parent is having trouble making progress on the case plan**

**Day 30**  
**335 days left**

# **Out of Home Placement Plan**



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# Out of Home Placement Plan

- **Must be filed by social services agency within 30 days of child's court-ordered placement or voluntary placement agree**
- **Must be prepared jointly by social worker and parent, and in consultation with child, GAL, tribe, and foster parent**

# Out of Home Placement Plan

- **Must include:**
  - ✓ **Steps parent must take to correct conditions that lead to out of home placement**
  - ✓ **Services the agency will provide to assist parent to correct conditions**
  - ✓ **Services for child's wellbeing**
- **Best practice for social workers to include in case plan specific requests by parents using parent's language, not social worker jargon**

# Out of Home Placement Plan

- **Parent has a right to counsel regarding development of case plan**
- **What should parents' attorneys do to prepare clients if attorney not present at case planning meeting**

**Day 63**  
**302 days left**

# **Pretrial Hearing and Trial**



# PERMANENCY TIMELINE FOR CHILDREN IN OUT-OF-HOME PLACEMENT

(Timeline shows maximum days for each event)

## CHIPS Proceeding

0	3	13	28	30	53	63	93	123	180	193	283	335*	365* (Permanency Proceeding Commenced)
Child Removed from home	Petition Served <sup>1</sup> & EPC Hearing <sup>2</sup> (ADH)	Admit/Deny Hearing <sup>4</sup> (ADH)	Schedule Order Filed <sup>5</sup>	Out of Home Placement Plan Filed <sup>6</sup>	Pretrial Hearing <sup>7</sup>	Trial <sup>8</sup>	Disp. Rev. Hearing	Adj. & Dispo. <sup>11</sup>	Permanency Progress Review Hearing <sup>12</sup>	Disp. Review Hearing <sup>9</sup>	Disp. Rev. Hearing <sup>9</sup>	Perm. Petition Filed	

➔ If child not removed from home: Protective Services Case Plan<sup>3</sup> must be filed with petition.

## Permanency Proceeding (in order of statutory preference<sup>13</sup>)

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

**Preferred permanency<sup>13</sup>:**  
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**Guardianship to Commissioner of Human Services – Consent to Adopt (GLCHS)**

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

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

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

**\*Only two exceptions:** The Admit/Deny Hearing on the perm. petition may be continued beyond month 12 ONLY if: (1) the child is on a trial home visit with the parent from whom the child was removed, then the ADH may be continued for the remaining length of the trial home visit (a THV may last no more than 6-months); or (2) at least one other CHIPS petition has been filed within the last 5 years and the child has been in out-of-home placement for 365 days as part of the prior petition(s), then, if the agency establishes a compelling reason, the court may continue the ADH on the permanency petition for up to 6 months.<sup>15</sup>

335	365	415	425	485	575
TPR Petition Filed <sup>14</sup>	Admit/Deny Hearing <sup>15</sup>	Pretrial Hearing <sup>16</sup>	Trial Start <sup>17</sup>	Findings Decision Filed <sup>18</sup>	Post-TPR Review Hearing <sup>19</sup>
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# Pretrial Hearing

- **Pretrial Hearing must be held at least 10 days prior to trial**
- **Narrow the issues – opportunity to settle**
- **Identify witness**
- **Identify exhibits**

# Trial

- **Expedited process due to 12-month permanency timeline**
- **Must be commenced within 60 days of EPC or Admit/Deny, whichever is earlier**
- **Must be held on consecutive days**
- **Must be completed within 30 days of commencement**
- **Decision must be issued within 15 days of date last person testified (judge may take extra 15 days)**

**Day 123**  
**242 days left**

# **Ajudication and Disposition**



# PERMANENCY TIMELINE FOR CHILDREN IN OUT-OF-HOME PLACEMENT

(Timeline shows maximum days for each event)

## CHIPS Proceeding

0	3	13	28	30	53	63	123	193	283	335*	365* (Permanency Proceeding Commenced)	
Child Removed from home	Petition Served <sup>1</sup> & EPC Hearing <sup>2</sup> (ADH)	Admit/Deny Hearing <sup>4</sup>	Schedule Order Filed <sup>5</sup>	Out of Home Place. Plan Filed <sup>6</sup>	Pretrial Hearing <sup>7</sup>	Trial <sup>8</sup>	Disposal Hearing <sup>9</sup> if Adj. & Disposal at ADH <sup>9</sup>	Adjud. Disposal <sup>10</sup> & Review Hearing <sup>11</sup>	Permanency Review Hearing <sup>12</sup>	Disp. Review Hearing <sup>9</sup>	Disp. Review Hearing <sup>9</sup>	Perm. Petition Filed

➔ If child not removed from home: Protective Services Case Plan<sup>3</sup> must be filed with petition.

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# Ajudication

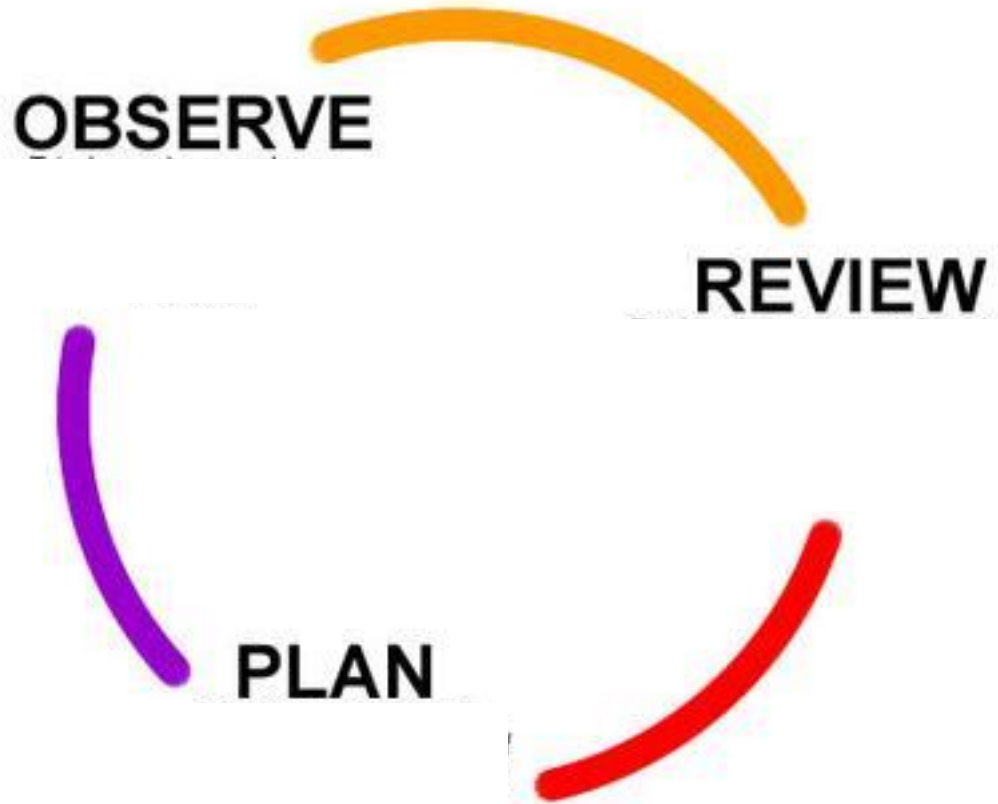
- **If trial, decision must be issued within 15 days of date last person testified (judge may take extra 15 days)**
- **Factual basis and statutory grounds must be proven by clear and convincing evidence**
- **If proven, court issues order adjudicating child as in need of protection or services (CHIPS)**
- **May withhold entry of adjudication for up to 90 days**

# Disposition

- **Disposition order preferably issued on same day as adjudication finding, but no later than 10 days from adjudication**
- **Pre-disposition reports may be filed (e.g., psych evals, medical records, CD evals, etc.)**
- **Disposition Order must include alternative dispositions or services under the case plan considered by the court and why such dispositions or services not appropriate**

**Day 213**  
**142 days left**

**Intermediate  
Disposition  
Review  
Hearing**



# PERMANENCY TIMELINE FOR CHILDREN IN OUT-OF-HOME PLACEMENT

(Timeline shows maximum days for each event)

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➔ If child not removed from home: Protective Services Case Plan<sup>3</sup> must be filed with petition.

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# Intermediate Disposition Review Hearing

- **Once adjudication and disposition ordered, Intermediate Disposition Review Hearing (IDH):**
  - ✓ **within 90 days of adjudication date, if child in foster care, or**
  - ✓ **within 6 months of adjudication, if child under protective supervision**
- **Proceedings must take place in court – no out-of-court “paper” reviews (even if everyone agrees)**

# Intermediate Disposition Review Hearing

- **Many judges order disposition review hearings more often than 90 days**
- **Purpose is to:**
  - ✓ **Ensure child's needs are being met, and**
  - ✓ **Monitor parents' progress on case plan**
  - ✓ **Modify what parent needs to do and services to be provided by social services agency, if needed**

Day 180  
185 days left

# Permanency Progress Review Hearing



# PERMANENCY TIMELINE FOR CHILDREN IN OUT-OF-HOME PLACEMENT

(Timeline shows maximum days for each event)

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Child Removed from home	Petition Served <sup>1</sup> & EPC Hearing <sup>2</sup> (ADH)	Admit/Deny Hearing <sup>4</sup> (ADH)	Schedule Order Filed <sup>5</sup>	Out of Home Place. Plan Filed <sup>6</sup>	Pretrial Hearing <sup>7</sup>	Trial <sup>8</sup>	Disp. Rev. Hearing if Adj. & Disp. at ADH	Adj. Disp.	<b>Permanency Progress Review Hearing<sup>12</sup></b>	Disp. Review Hearing <sup>9</sup>	Disp. Rev. Hearing <sup>9</sup>	Perm. Petition Filed	

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# Permanency Progress Review Hearing

- **Must be commenced no later than 180 days after the child's removal from home**
- **Hearing required for all children, regardless of age (no longer just for children under age 8)**
- **Judge reviews whether parents are:**
  - ✓ **Making progressing on case plan, and**
  - ✓ **Maintaining regular contact with child**

# Permanency Progress Review Hearing

- **If parents making progress AND maintaining regular contact, judge may order case to continue for up to another 6 months**
- **If parents not making progress OR not maintaining regular contact, judge may order county attorney to file permanency petition with in 30 days**

# Trial Home Visit and Protective Supervision



# Trial Home Visit and Protection Supervision

- **Trial home visit and protective supervision are both forms of interim dispositions, not permanency plans**
- **Opportunity for parents to show home is safe and capacity to parent child**
- **Method for reducing foster care re-entry**



# Trial Home Visit

- **Trial Home Visit**
  - ✓ **Parent has physical custody, county retains legal custody and may remove child without court order**
  - ✓ **May only be with parent from whom child removed – clock continues**
  - ✓ **May last up to 6 months**

# Protection Supervision

- **Protective supervision**
  - ✓ **Can be with either parent**
  - ✓ **With parent from whom child removed – clock stops**
  - ✓ **With other parent – clock continues**

**Day 335**  
**30 days left**

**Permanency  
Petition  
Filed**



# PERMANENCY TIMELINE FOR CHILDREN IN OUT-OF-HOME PLACEMENT

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# Permanency Petition

**If child is not able to safely return home, then by month 11 (day 335) county attorney must file a permanency petition:**

- **Termination of Parental Rights (TPR)**
- **Guardianship to Commissioner of Human Services (GCHS) (consent to adopt)**
- **Transfer of Permanent Legal and Physical Custody to a relative (TLC)**
- **Permanent Custody to Agency (PCA )**
- **Temporary Custody to Agency (TCA)**
- **“Combo” (e.g., TPR and TLC)**

**Day 365**  
**0 days left**

# **Admit/Deny Hearing on Permanency Petition**



# Admit/Deny Hearing on Permanency Petition

- **Must be commenced by day 365**
- **Only two exceptions to requirement that permanency petition be filed by day 335 and Admit/Deny Hearing be commenced by day 365:**
  - ✓ **Child is on a trial home visit – can extend permanency for remainder for THV (up to six months)**
  - ✓ **Prior CHIPS petitions in last 5 years and child in out-of-home placement for 365+ days, then may extend up to 6 months**

# Trial on Permanency Petition

- **Must be commenced within 60 days of Admit/Deny**
- **Must be held on consecutive days**
- **Must be completed within 30 days of commencement**



# Decision on Permanency Petition

- **Decision must be issued within 15 days of date last person testified (judge may take extra 15 days)**

# Post-Permanency Review Hearings

- **TPR granted: reviewing hearing must be held at least every 90 days to review progress toward adoption**
- **TPLPC granted: recommended review for 90 days to ensure transfer goes well**

# Questions



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