

CHAPTER 15

**PERMANENCY PROGRESS REVIEW HEARING AND
PERMANENT PLACEMENT DETERMINATION HEARING**

TABLE OF CONTENTS

GENERAL 15-3
 15.01 Recommended Hearing Length 15-3

**6 - MONTH PERMANENCY PROGRESS REVIEW HEARING FOR CHILD UNDER AGE 8
..... 15-3**

15.02 Timing of Hearing 15-3
 15.03 Purpose of Hearing 15-3
 15.04 Report on Case Plan or Out-of-Home Placement Plan 15-3
 15.05 Determinations 15-3
 15.06 Decision 15-4
 A. Regular Contact Maintained and Parent Complying 15-4
 B. Regular Contact Not Maintained and/or Parent Not Complying 15-4
 15.07 Order 15-4
 A. Timing 15-4
 B. Immediate Effect of Oral Order 15-4
 15.08 Responsible Agency’s or County Attorney’s Duties Following Hearing .. 15-4
 A. Provide Services 15-4
 B. File Transfer of Permanent Legal and Physical Custody Petition 15-5
 C. File TPR Petition 15-5
 15.09 Next Hearing 15-5
 A. Disposition Review Hearing 15-5
 B. Admit/Deny Hearing on Permanency Petition 15-5
 C. Trial 15-5

**12-MONTH PERMANENT PLACEMENT DETERMINATION HEARING (ADMIT/DENY
HEARING) IF CHILD REMAINS IN OUT-OF-HOME PLACEMENT 15-6**

15.10 Timing 15-6
 15.11 Purpose of Hearing 15-6
 15.12 Service of Permanency Petition 15-6
 15.13 Admit/Deny Hearing on Permanency Petition 15-6
 A. Timing 15-6
 B. Initial Inquiries 15-6
 C. Additional Procedures – TPR Petition 15-7
 D. Additional Procedures – Other Permanency Petition 15-8
 E. Admission/Denial 15-9
 F. Timing of Permanent Placement Determination Order 15-10
 15.14 Pretrial and Trial 15-10

Table of Contents Continued on Next Page

15.15 Permanent Placement Determination Order	15-10
A. Timing	15-10
B. Required Findings.....	15-10
C. Decision and Order	15-14
15.16 Next Hearing	15-20
A. TPR Matters – Post-TPR Review Hearings	15-20
B. Long Term Foster Care Matters	15-20
C. Transfer of Permanent Legal and Physical Custody	15-20
15.17 Notice of Subsequent Hearings	15-21

	PROCEDURE	AUTHORITY
15.01.	RECOMMENDED HEARING LENGTH 60 minutes	Resource Guidelines, p. 84
	6-MONTH PERMANENCY PROGRESS REVIEW HEARING FOR CHILD UNDER AGE 8	
15.02.	TIMING OF HEARING For a child who is under age 8 at the time a CHIPS petition is filed, the court shall conduct a Permanency Progress Review Hearing to review the progress of the case, the parent's progress on the case plan or out-of-home placement plan, and the provision of services not later than 6 months after the child is placed in foster care or in the home of a noncustodial parent. <i>Comment: For purposes of calculating out-of-home placement, the child shall be considered placed out of the care of the parent at the earlier of: (a) the date of the child's placement in foster care or in the care of a noncustodial parent was ordered by the court; or (b) sixty (60) days after the date on which the child has been voluntarily placed in foster care as a result of a voluntary placement agreement between the parents and the responsible social services agency.</i>	<ul style="list-style-type: none"> • RJPP 42.01, subd. 1(a) • Minn. Stat. § 260C.201, subd. 11a(a) RJPP 42.02
15.03.	PURPOSE OF HEARING The purpose of the hearing is to review: <ol style="list-style-type: none"> 1. the overall progress of the case; 2. the parent's progress on the case plan or out-of-home placement plan; and 3. the provision of services by the responsible social services agency. 	<ul style="list-style-type: none"> • RJPP 42.01, subd. 2(b) • Minn. Stat. § 260C.201, subd. 11a(a)
15.04.	REPORT ON CASE PLAN OR OUT-OF-HOME PLACEMENT PLAN Not later than 10 days prior to the hearing, the county attorney must file with the court and serve upon the parties a written report prepared by the responsible social services agency describing the progress of the case and the progress on the case plan or out-of-home placement plan, including the services provided to the parents.	RJPP 42.04, subd. 1
15.05.	DETERMINATIONS At the conclusion of the hearing, the court shall determine whether: <ol style="list-style-type: none"> 1. the parents or legal custodian have maintained regular contact with the child; 2. the parents are complying with the court-ordered case plan or out-of-home placement plan; and 3. the child would benefit from continuing this relationship. 	<ul style="list-style-type: none"> • RJPP 42.02, subd. 2(b) • Minn. Stat. § 260C.201, subd. 11a(c)

	PROCEDURE	AUTHORITY
15.06.	<p>DECISION</p> <p>A. REGULAR CONTACT MAINTAINED AND PARENT COMPLYING. If the court determines that parent or legal custodian is maintaining regular contact with the child as outlined in the visitation plan set forth in the case plan or out-of-home placement plan, <u>and</u> the parent is complying with the court-ordered case plan or out-of-home placement plan, <u>and</u> the child would benefit from continuing this relationship, the court may either:</p> <ol style="list-style-type: none"> return the child home, if the conditions which led to the out-of-home placement have been sufficiently mitigated and it is safe and in the child's best interests to return home; or continue the matter up to a total of 6 additional months, schedule disposition review hearings at least every 90 days, and set the date or deadline for the 12-month permanent placement determination hearing in the event the child is not returned home. <p>B. REGULAR CONTACT NOT MAINTAINED AND/OR PARENT NOT COMPLYING. If the court determines that the parent or legal custodian is not maintaining regular contact with the child as outlined in the visitation plan set forth in the case plan or out-of-home placement plan <u>and/or</u> the parent is not complying with the court-ordered case plan or out-of-home placement plan, the court may order the responsible social services agency to develop a plan and file a petition for permanent placement of the child away from the parent (e.g., termination of parental rights, transfer of permanent legal and physical custody to a relative).</p>	<ul style="list-style-type: none"> RJPP 42.04, subd. 1(b)(1) Minn. Stat. § 260C.201, subd. 11a(c)(1) <ul style="list-style-type: none"> RJPP 42.04, subd. 1(b)(2) Minn. Stat. § 260C.201, subd. 11a(c)(2)
15.07.	<p>ORDER</p> <p>A. TIMING. The order shall be filed with the court administrator within 10 days of the conclusion of the hearing.</p> <p>B. IMMEDIATE EFFECT OF ORAL ORDER. Unless otherwise ordered by the court, an order stated on the record shall be effective immediately.</p>	<p>RJPP 10.01</p> <p>RJPP 10.02</p>
15.08.	<p>RESPONSIBLE AGENCY'S OR COUNTY ATTORNEY'S DUTIES FOLLOWING HEARING</p> <p>Following the hearing the county attorney and/or agency may have the following duties:</p> <p>A. PROVIDE SERVICES. If the court returns the child home or continues the matter up to a total of 6 additional months, the agency shall continue to provide services to support the child's return home or to continue to make reasonable/active efforts to achieve reunification of the child and the parent as ordered by the court under an approved case plan.</p>	<ul style="list-style-type: none"> RJPP 42.04, subd. 1(c) Minn. Stat. § 260C.201, subd. 11a(d)

	PROCEDURE	AUTHORITY
	<p>15.08 Responsible Agency's or County Attorney's Duties Following Hearing (continued)</p> <p>B. FILE TRANSFER OF PERMANENT LEGAL AND PHYSICAL CUSTODY PETITION. If the court orders the agency to develop a plan for the transfer of permanent legal and physical custody of the child to a relative, a petition supporting the plan shall be filed with the court within 30 days of the hearing.</p> <p>C. FILE TPR PETITION. If the court orders the agency to file a TPR petition, unless the county attorney can show cause why a TPR petition should not be filed, a petition for TPR shall be filed with the court within 30 days of the hearing.</p>	<ul style="list-style-type: none"> • RJPP 42.04, subd. 1(c) • Minn. Stat. § 260C.201, subd. 11a(d) • RJPP 42.04, subd. 1(c) • Minn. Stat. § 260C.201, subd. 11a(d)
15.09.	<p>NEXT HEARING</p> <p>A. DISPOSITION REVIEW HEARING. If the court determines that the parent is maintaining contact with the child and complying with the case plan and orders that the matter be continued for up to another 6 months, the court shall schedule a disposition review hearing at least every 90 days</p> <p>B. ADMIT/DENY HEARING ON PERMANENCY PETITION. If the court determines that the parent is not maintaining contact with the child and/or not complying with the case plan and orders the agency to file an appropriate permanency petition, an admit/deny hearing on the permanency petition shall be commenced within 10 days of the service of the summons and petition.</p> <p>C. TRIAL. If a permanency petition is filed and denied, then a trial must be commenced within:</p> <ul style="list-style-type: none"> • 30 days of the filing of a petition to transfer permanent legal and physical custody to a relative; or • 90 days of the filing of a petition to terminate parental rights. 	<p>RJPP 41.06, subd. 1</p> <p>RJPP 34.02, subd. 1(b)-(c)</p> <ul style="list-style-type: none"> • RJPP 42.04, subd. 1(c)(2)-(3) • RJPP 39.02, subd. 1(b)-(c) • Minn. Stat. § 260C.201, subd. 11a(d)(2)-(3)

	PROCEDURE	AUTHORITY
	12-MONTH PERMANENT PLACEMENT DETERMINATION HEARING (ADMIT/DENY HEARING) IF CHILD REMAINS IN OUT-OF-HOME PLACEMENT	
15.10.	<p>TIMING The court shall commence proceedings (an admit/deny hearing) to determine the permanent status of the child not later than 12 months after the child is placed in foster care or in the home of a noncustodial parent.</p> <p><i>Comment: For purposes of calculating time in out-of-home placement, the child shall be considered placed out of the care of the parent at the earlier of: (a) the date the child was ordered into foster care or into the care of a noncustodial parent; or (b) sixty (60) days after the date on which the child has been voluntarily placed in foster care as a result of a voluntary placement agreement between the parents and the responsible social services agency. Time spent on a trial home visit counts towards the requirement of a permanency hearing.</i></p>	<ul style="list-style-type: none"> • RJPP 42.01, subd. 1(b) • Minn. Stat. § 260C.201, subd. 11(a) • RJPP 42.02 • Minn. Stat. § 260C.201, subd. 11(a) • 2007 Minn. Laws 147, Art. 1, § 18 (time in trial home visit counts towards permanency)
15.11.	<p>PURPOSE OF HEARING The purpose of the hearing is to determine the child's permanent placement status by reviewing:</p> <ol style="list-style-type: none"> 1. The progress of the case and the parent's progress on the case plan or out-of-home placement plan; 2. The services provided by the responsible social services agency, and 3. Whether or not the conditions that led to the child's placement in foster care or in the home of a noncustodial parent have been corrected so that the child can return to the care of the parent or custodian from whom the child was removed. 	<ul style="list-style-type: none"> • RJPP 42.01, subd. 2(a) • Minn. Stat. § 260C.201, subd. 11(a)
15.12.	<p>SERVICE OF PERMANENCY PETITION Unless the responsible social services agency recommends return of the child to the custodial parent, the responsible social services agency must file a permanency petition not later than 30 days prior to the admit/deny hearing on the permanency petition.</p>	<ul style="list-style-type: none"> • RJPP 42.04, subd. 2(b) • Minn. Stat. § 260C.201, subd. 11a(b)
15.13.	<p>ADMIT/DENY HEARING ON PERMANENCY PETITION</p> <p>A. TIMING. The admit/deny hearing on the permanency petition shall be held not less than 10 days after service of the summons and petition is complete upon the parties.</p> <p>B. INITIAL INQUIRIES. At the commencement of the hearing the court shall on the record:</p> <ol style="list-style-type: none"> 1. Verify the name, age, race, and current address of the child who is the subject of the matter, unless stating the address would endanger the child or seriously risk disruption of the current placement; 	<p>RJPP 34.02, subd. 1(b)-(c)</p> <ul style="list-style-type: none"> • RJPP 34.03, subd. 4(a) • RJPP 34.03, subd. 1

	PROCEDURE	AUTHORITY
	<p>15.13 Admit/Deny Hearing on Permanency Petition (continued)</p> <ol style="list-style-type: none"> 2. Inquire whether the child is an Indian child and, if so, determine whether the Indian child's tribe, parent, and Indian custodian have been notified; 3. Determine whether all parties are present and identify those present for the record; 4. Advise any child and the child's parent or legal custodian who appears in court and is not represented by counsel of the right to representation pursuant to RJPP 25 (see chapter 23); 5. Determine whether notice requirements have been met and, if not, whether the affected person waives notice; 6. If the child who is a party or the child's parent or legal custodian appears without counsel, explain basic trial rights; 7. Determine whether the child and the child's parent or legal custodian understand the statutory grounds and the factual allegations set forth in the petition and, if not, provide an explanation; and 8. Explain the purpose of the hearing and the possible transfer of custody of the child from the parent or legal custodian to another and the 12-month permanency requirements of Minn. Stat. § 260C.201, subd. 11. <p>C. ADDITIONAL PROCEDURES – TPR PETITION</p> <ol style="list-style-type: none"> 1. Prima Facie Determination – Juvenile Protection Matter Exists. After completing the initial inquiries in "B" above, the court shall determine whether the petition states a prima facie case in support of one or more statutory grounds set forth in the petition to terminate parental rights. The court shall dismiss the petition if it finds that the petition fails to establish a prima facie showing that a juvenile protection matter exists and that the child is the subject of that matter. 2. Prima Facie Determination – Reasonable/Active Efforts. When the petition alleges that reasonable efforts, or active efforts in the case of an Indian child, have been made to reunify the child with the parent or legal custodian, the court shall enter a separate finding regarding whether the factual allegations contained in the petition state a prima facie case that the agency has provided reasonable efforts, or active efforts in the case of an Indian child, to reunify the child and the parent or legal custodian. In the alternative, the court may enter 	<ul style="list-style-type: none"> • RJPP 34.03, subd. 4(a) • RJPP 34.03, subd. 1 <p>RJPP 34.03, subd. 3(a)</p> <p>RJPP 34.03, subd. 3(b)</p>

	PROCEDURE	AUTHORITY
	<p>15.13 Admit/Deny Hearing on Permanency Petition (continued)</p> <p>a finding that reasonable efforts to reunify the child and the parent or legal custodian were not required under Minn. Stat. § 260.012 (see Chapter 28 – “bypass” cases).</p> <p>3. Admissions/Denials or Other Next Steps.</p> <p>a. If the court determines that the petition states a prima facie case in support of termination of parental rights, the court shall proceed pursuant to accept an admission or denial to the petition (see section 15.14(E) below).</p> <p>b. If the court determines that the petition fails to state a prima facie case in support of termination of parental rights, the court shall:</p> <p>(1) return the child to the care of the parent or legal custodian;</p> <p>(2) give the petitioner 10 days to file an amended petition or supplementary information if the petitioner represents there are additional facts which, if presented to the court, would establish a prima facie case in support of termination of parental rights;</p> <p>(3) give the petitioner 10 days to file a child in need of protection or services petition; or</p> <p>(4) dismiss the petition.</p> <p>D. ADDITIONAL PROCEDURES – OTHER PERMANENCY PETITION.</p> <p>1. Prima Facie Determination – Permanency Option Exists. After completing the initial inquiries in “B” above, the court shall determine whether the petition states a prima facie case in support of one or more of the permanent placement options.</p> <p>2. Prima Facie Determination – Reasonable/Active Efforts. When the petition alleges that reasonable efforts, or active efforts in the case of an Indian child, have been made to reunify the child with the parent or legal custodian, the court shall enter a finding regarding whether the factual allegations contained in the petition state a prima facie case that the agency has provided reasonable efforts, or active efforts in the case of an Indian child, to reunify the child and the parent or legal custodian. In the alternative, the court may enter a finding that reasonable efforts to reunify the child and</p>	<p>RJPP 34.03, subd. 3(c)</p> <p>RJPP 34.04, subd. 4(a)</p> <p>RJPP 34.03, subd. 4(b)</p>

	PROCEDURE	AUTHORITY
	<p>15.13 Admit/Deny Hearing on Permanency Petition (continued)</p> <p>the parent or legal custodian were not required under Minn. Stat. § 260.012 (see Chapter 28 – “bypass” cases).</p> <p>3. Admissions/Denials or Other Next Steps.</p> <p>a. If the court determines that the petition states a prima facie case in support of the petition, the court shall proceed pursuant to accept an admission or denial to the petition (see section 15.13(E) below).</p> <p>b. If the court determines that the petition states a prima facie case, the court shall proceed pursuant to RJPP 35. If the court determines that the petition fails to state a prima facie case, the court may:</p> <p>(1) return the child to the care of the parent;</p> <p>(2) give the petitioner 10 days to file an amended petition or supplementary information if the petitioner represents there are additional facts which, if presented to the court, would establish a prima facie case; or</p> <p>(3) dismiss the petition.</p> <p>E. ADMISSION/DENIAL</p> <p>1. If the petition is admitted, the court shall proceed to accept the admission(s) (see Chapter 9) and then determine whether the child shall be returned home or, if not order permanent placement consistent with the petition.</p> <p>2. If the petition is denied, the court shall schedule:</p> <ul style="list-style-type: none"> • a pretrial hearing (see chapter 10) to commence at least 10 days prior to the date for the trial, and • a trial (see chapter 16) to commence within 60 days of the admit/deny hearing. <p><i>Comment: An inconsistency exists between the rules and statutes. This Chapter sets for the statutory version, which is the more stringent timeline. The statutes require a trial on any permanency petition to commence within 60 days of the admit/deny hearing. The rules require a trial on a TPR to commence within 90 days of the filing of the petition and require a trial on any other permanency petition to commence within 60 days of the admit/deny hearing or within 90 of the filing of the petition, whichever is earlier.</i></p>	<p>RJPP 34.03, subd. 3(c)</p> <p>RJPP 35.02</p> <ul style="list-style-type: none"> • RJPP 35.02, subd. 2 • RJPP 36.01 (pretrial) • Minn. Stat. § 260C.201, subd. 11(c) (timing of any TPR and other permanency trials) • RJPP 39.02, subd. 1(b) (timing of TPR and other permanency trials)

	PROCEDURE	AUTHORITY
	<p>15.13 Admit/Deny Hearing on Permanency Petition (continued)</p> <p>F. TIMING OF PERMANENT PLACEMENT DETERMINATION ORDER. Within 10 days of the conclusion of the admit/deny hearing the court shall file its findings and order with the court administrator.</p>	RJPP 10.01
15.14.	<p>PRETRIAL HEARING AND TRIAL See chapter 10 for procedures regarding pretrial hearings and chapter 16 for procedures regarding trial on a TPR or other permanency petition.</p>	
15.15.	<p>PERMANENT PLACEMENT DETERMINATION ORDER</p> <p>A. TIMING. Within 15 days of the entry of an admission to a permanency petition or conclusion of a trial on a permanency petition, the court shall issue and file with the court administrator a permanent placement order. The court may extend this period for an additional 15 days if the court finds that an extension of time is required in the interests of justice and the best interests of the child.</p> <p>B. REQUIRED FINDINGS.</p> <ol style="list-style-type: none"> 1. All Permanency Cases – General Findings. An order permanently placing a child out of the home of the parent or guardian must include detailed findings regarding the following: <ol style="list-style-type: none"> a. How the child's best interests are served by the order; b. The nature and extent of the responsible social service agency's reasonable efforts, or, in the case of an Indian child, active efforts to reunify the child with the parent or guardian where reasonable efforts are required; c. The parent's or parents' efforts and ability to use services to correct the conditions which led to the out-of-home placement; and d. that the conditions which led to the out-of-home placement have not been corrected and the child cannot safely return home. 2. TPR Cases – Best Interests of Child Findings. In any TPR proceeding, the best interests of the child must be the paramount consideration. Where the interests of the parent and child conflict, the interests of the child are paramount. In a case involving an Indian child, the best interests of the child must be determined consistent with the Indian Child Welfare Act. 	<p>RJPP 42.05, subd. 1</p> <p>Minn. Stat. § 260C.201, subd. 11(i)</p> <p>Minn. Stat. § 260C.301, subd. 7</p>

	PROCEDURE	AUTHORITY
	<p>15.15 Permanent Placement Determination Order (continued)</p> <p>3. TPR Cases – Grounds to Terminate. Before the court may enter a voluntary or an involuntary termination of parental rights, the court must find that one of the following:</p> <p>a. A parent who for good cause desires to terminate parental rights has signed a written consent in the presence of the judge;</p> <p><i>Best Practice – Refer to chapter 18 (Adoptions) for details about who must consent and the special procedures for consenting, especially in cases involving an Indian child.</i></p> <p>OR</p> <p>b. One or more of the following conditions exist:</p> <p>(1) the parent has abandoned the child;</p> <p>(2) the parent has substantially, continuously, or repeatedly refused or neglected to comply with the duties imposed upon that parent by the parent and child relationship, including but not limited to providing the child with necessary food, clothing, shelter, education, and other care and control necessary for the child's physical, mental, or emotional health and development if the parent is physically and financially able, and either reasonable efforts by the social services agency have failed to correct the conditions that formed the basis of the petition or reasonable efforts would be futile and therefore unreasonable;</p> <p>(3) a parent has been ordered to contribute to the support of the child or financially aid in the child's birth and has continuously failed to do so without good cause; but this clause shall not be construed to state a grounds for termination of parental rights of a noncustodial parent if that parent has not been ordered to or cannot financially contribute to the support of the child or aid in the child's birth;</p> <p>(4) a parent is palpably unfit to be a party to the parent and child relationship because of a consistent pattern of specific conduct before the child or of specific conditions directly relating to the parent and child relationship either of which are determined by the court to</p>	<p>Minn. Stat. § 260C.301, subd. 1(a)</p> <p>Minn. Stat. § 260C.301, subd. 1(b)</p>

	PROCEDURE	AUTHORITY
	<p>15.15 Permanent Placement Determination Order (continued)</p> <p>be of a duration or nature that renders the parent unable, for the reasonably foreseeable future, to care appropriately for the ongoing physical, mental, or emotional needs of the child. It is presumed that a parent is palpably unfit to be a party to the parent and child relationship upon a showing that the parent's parental rights to one or more other children were involuntarily terminated or that the parent's custodial rights to another child have been involuntarily transferred to a relative under section Minn. Stat. § 260C.201, subd. 11(e)(1), or a similar law of another jurisdiction;</p> <p>(5) following the child's placement out of the home, reasonable efforts, under the direction of the court, have failed to correct the conditions leading to the child's placement. It is presumed that reasonable efforts under this clause have failed upon a showing that:</p> <ol style="list-style-type: none"> i. a child has resided out of the parental home under court order for a cumulative period of 12 months within the preceding 22 months. In the case of a child under age eight at the time the CHIPS petition was filed, the presumption arises when the child has resided out of the parental home under court order for six months unless the parent has maintained regular contact with the child and the parent is complying with the out-of-home placement plan; ii. the court has approved the out-of-home placement plan required under Minn. Stat. § 260C.212; iii. conditions leading to the out-of-home placement have not been corrected. It is presumed that conditions leading to a child's out-of-home placement have not been corrected upon a showing that the parent or parents have not substantially complied with the court's orders and a reasonable case plan; and 	<p>Minn. Stat. § 260C.301, subd. 1(b)</p>

	PROCEDURE	AUTHORITY
	<p>15.15 Permanent Placement Determination Order (continued)</p> <p>iv. reasonable efforts have been made by the social services agency to rehabilitate the parent and reunite the family.</p> <p>This clause does not prohibit the termination of parental rights prior to one year, or in the case of a child under age eight, prior to six months after a child has been placed out of the home.</p> <p>It is also presumed that reasonable efforts have failed under this clause upon a showing that:</p> <p>(A) the parent has been diagnosed as chemically dependent by a professional certified to make the diagnosis;</p> <p>(B) the parent has been required by a case plan to participate in a chemical dependency treatment program;</p> <p>(C) the treatment programs offered to the parent were culturally, linguistically, and clinically appropriate;</p> <p>(D) the parent has either failed two or more times to successfully complete a treatment program or has refused at two or more separate meetings with a caseworker to participate in a treatment program; and</p> <p>(E) the parent continues to abuse chemicals.</p> <p>(6) that a child has experienced egregious harm in the parent's care which is of a nature, duration, or chronicity that indicates a lack of regard for the child's well-being, such that a reasonable person would believe it contrary to the best interest of the child or of any child to be in the parent's care;</p> <p>(7) that in the case of a child born to a mother who was not married to the child's father when the child was conceived nor when the child was born the person is not entitled to notice of an adoption hearing under Minn. Stat. § 259.49 and the person has not registered with the fathers' adoption registry under Minn. Stat. § 259.52;</p> <p>(8) that the child is neglected and in foster care; or</p>	<p>Minn. Stat. § 260C.301, subd. 1(b)</p>

	PROCEDURE	AUTHORITY
	<p>15.15 Permanent Placement Determination Order (continued)</p> <p>(9) that the parent has been convicted of a crime listed in Minn. Stat. § 260.012(b)(1) – (3). In an action involving an American Indian child, Minn. Stat. § 260.751 – 835 and the Indian Child Welfare Act, 25 U.S.C. § 1901 to 1923, control to the extent that the provisions of this section are inconsistent with those laws.</p> <p>3. TPR Cases – Reasonable Efforts Findings. In any TPR proceeding, the court shall make specific findings that:</p> <ol style="list-style-type: none"> a. reasonable efforts to prevent the placement and to reunify the child and the parent were made, including individualized and explicit findings regarding the nature and extent of efforts made by the social services agency to rehabilitate the parent and reunite the family; or b. reasonable efforts at reunification are not required as provided under Minn. Stat. § 260.012. <p>C. DECISION AND ORDER. At the conclusion of the permanency proceedings, the court shall order either (1) or (2) below:</p> <ol style="list-style-type: none"> 1. Order the child returned to the care of the parent or guardian from whom the child was removed. In doing so, the court may enter or continue a prior finding that the child is in need of protection or services and may order conditions directed to correction of the child's need for protection or services. The court may order: <ol style="list-style-type: none"> a. the child returned on a trial home visit* pursuant to RJPP 41.05, subd. 2(a)(3); b. the child placed under the protective supervision of the responsible social services agency under RJPP 41.05, subd. 2(a)(1); or c. monitoring of the parent's continued ability to maintain the child safely in the home under RJPP 41.05, subd. 2(a)(6). <p><i>*Comment: If at the conclusion of the permanency proceeding the child is returned home on a trial home visit and the child is later returned to foster care, the court must re-commence the permanency proceedings within 30 days of the child's return to foster care.</i></p> <p>OR</p> <p>15.15 Permanent Placement Determination Order</p>	<p>Minn. Stat. § 260C.301, subd. 1(b)</p> <p>Minn. Stat. § 260C.301, subd. 8</p> <ul style="list-style-type: none"> • Minn. Stat. § 260C.201, subd. 11(c) • RJPP 42.05, subd. 2(b) <p>2007 Minn. Laws 147, Art. 1, § 18</p>

	PROCEDURE	AUTHORITY
	<p>(continued)</p> <p>2. Order one of the following permanent placements away from the child's home:</p> <p>a. Transfer of Permanent Legal and Physical Custody.</p> <p>(1) Conditions. Transfer of permanent legal and physical custody to a relative may be ordered only if the court has reviewed the suitability of the prospective legal and physical custodian and the transfer to the relative includes responsibility for the protection, education, care, and control of the child and decision making on behalf of the child;</p> <p>(2) Termination of Jurisdiction. If the court transfers permanent legal and physical custody to a relative, juvenile court jurisdiction is terminated unless specifically retained by the court in its order. The order transferring custody shall:</p> <ul style="list-style-type: none"> •state whether the transfer was voluntary or involuntary, •address ongoing parental and sibling visitation, •identify ongoing services to be delivered to the child while the juvenile court has jurisdiction, and •state whether a child support order exists or if the issue is reserved for future determination. <p><i>Best Practice: The transfer of permanent legal and physical custody of the child to a relative may involve a period of transition when the child does not know the relative well or has not previously lived with the relative or if the child has special needs. Under such circumstances, it is <u>Best Practice</u> to maintain jurisdiction and order review hearings for a period of up to ninety (90) days to ensure that the transition is going as planned and the needs of the child are being met as planned.</i></p> <p>(3) Continuing Jurisdiction. The court may maintain jurisdiction over the responsible social services agency, the parents or legal custodian, the child, and the permanent legal and physical custodian to ensure that appropriate services are delivered to the child and the permanent legal custodian or to ensure that the conditions ordered by the court related to the care and custody of the child are met.</p>	<ul style="list-style-type: none"> • Minn. Stat. § 260C.201, subd. 11© • RJPP 42.05, subd. 2(b) • Minn. Stat. § 260C.201, subd. 11(d)(1) <ul style="list-style-type: none"> • Minn. Stat. § 260C.201, subd. 11(d)(1)(vi) • RJPP 42.05, subd. 2(b) <ul style="list-style-type: none"> • Minn. Stat. § 260C.201, subd. 11(f)(2) • RJPP 42.05, subd. 2(b)

	PROCEDURE	AUTHORITY
	<p>15.15 Permanent Placement Determination Order (continued)</p> <p>(4) Post-Permanency Review Hearings. The court may order further in-court hearings at such intervals as it determines to be in the best interests of the child (see chapter 17).</p> <p>(5) Filing of Order in Family Court and Future Proceedings. When juvenile court jurisdiction is terminated, the court shall include an order directing the juvenile court administrator to file the order with the family court. Any further proceedings shall be brought in the family court pursuant to Minn. Stat. § 518.18. Notice of any family court proceedings shall be provided to the responsible social services agency which shall be a party to the family court proceeding pursuant to Minn. Stat. § 260C.201, subd. 11(j).</p> <p>b. Termination of Parental Rights.</p> <p>1. Unless the responsible social services agency has already filed a termination of parental rights petition, the court may order such a petition be filed pursuant to RJPP 33.01.</p> <p>2. If a child has been in placement 15 of the last 22 months, and if the court finds following a trial on a TPR petition that the petition is not proven or that TPR is not in the child's best interests, the court must order the child returned to the care of the parent unless the court approves the responsible social services agency's determination of compelling reasons why the child should remain out of the care of the parent. If the court orders the child returned to the care of the parent, the court may order a trial home visit, protective supervision, or monitoring under RJPP 41.05, subd. 2.</p> <p>c. Guardianship and Legal Custody to the Commissioner of Human Services. The court may award guardianship and legal custody to the Commissioner of Human Services under the following procedures and conditions:</p> <p>1. There is an identified prospective adoptive home agreed to by the responsible social services agency having legal custody of the child pursuant to court order under this section that has agreed to adopt the child and the court accepts the parent's</p>	<ul style="list-style-type: none"> • Minn. Stat. § 260C.201, subd. 11(d)(1)(iii) • RJPP 42.05, subd. 2(b) • RJPP 42.05, subd. 2(c) • Minn. Stat. § 260C.201, subd. 11(d)(2) • RJPP 42.05, subd. 2(d) • Minn. Stat. § 260C.201, subd. 11(d)(5)

	PROCEDURE	AUTHORITY
	<p>15.15 Permanent Placement Determination Order (continued)</p> <p>voluntary consent to adopt under Minn. Stat. § 259.24, except that such consent executed by a parent under this item, following proper notice that consent given under this provision is irrevocable upon acceptance by the court, shall be irrevocable unless fraud is established and an order issues permitting revocation as stated in item (7);</p> <ol style="list-style-type: none"> 2. If the court accepts a consent to adopt in lieu of ordering one of the other enumerated permanency dispositions, the court must review the matter at least every 90 days, and the review will address the reasonable efforts of the agency to achieve a finalized adoption; 3. A consent to adopt under this clause vests all legal authority regarding the child, including guardianship and legal custody of the child, with the commissioner of human services as if the child were a state ward after termination of parental rights; 4. The court must forward a copy of the consent to adopt, together with a certified copy of the order transferring guardianship and legal custody to the commissioner, to the commissioner; 5. If an adoption is not finalized by the identified prospective adoptive parent within 12 months of the execution of the consent to adopt under this clause, the commissioner of human services or the commissioner's delegate shall pursue adoptive placement in another home unless the commissioner certifies that the failure to finalize is not due to either an action or a failure to act by the prospective adoptive parent; 6. Notwithstanding item (5), the commissioner of human services or the commissioner's designee must pursue adoptive placement in another home as soon as the commissioner or commissioner's designee determines that finalization of the adoption with the identified prospective adoptive parent is not possible, that the identified prospective adoptive parent is not willing to adopt the child, that the identified prospective adoptive parent is not cooperative in completing the steps necessary to finalize the adoption, or upon the commissioner's determination to withhold consent to the adoption. 	<ul style="list-style-type: none"> • RJPP 42.05, subd. 2(d) • Minn. Stat. § 260C.201, subd. 11(d)(5)

	PROCEDURE	AUTHORITY
	<p>15.15 Permanent Placement Determination Order (continued)</p> <p>7. Unless otherwise required by the Indian Child Welfare Act, 25 U.S.C. § 1913, a consent to adopt executed under this section, following proper notice that consent given under this provision is irrevocable upon acceptance by the court, shall be irrevocable upon acceptance by the court except upon order permitting revocation issued by the same court after written findings that consent was obtained by fraud.</p> <p>d. Long-term Foster Care. The court may order long term foster care only under the following conditions:</p> <p>1. The court approves the responsible social services agency's compelling reasons that neither an award of permanent legal and physical custody to a relative nor termination of parental rights is in the child's best interests.</p> <p>2. The court finds the following:</p> <p>(A) the child has reached age 12 and the responsible social services agency has made reasonable efforts to locate and place the child with an adoptive family or with a fit and willing relative who will agree to a transfer of permanent legal and physical custody of the child, but such efforts have not proven successful; or</p> <p>(B) the child is a sibling of a child described in subitem (A) and the siblings have a significant positive relationship and are ordered into the same long-term foster care home; and</p> <p>(C) at least annually, the responsible social services agency reconsiders its provision of services to the child and the child's placement in long-term foster care to ensure that:</p> <p>i. long-term foster care continues to be the most appropriate legal arrangement for meeting the child's need for permanency and stability, including whether there is another permanent placement option under this chapter that would better serve the child's needs and best interests;</p>	<ul style="list-style-type: none"> • RJPP 42.05, subd. 2(d) • Minn. Stat. § 260C.201, subd. 11(d)(5) • RJPP 42.05, subd. 2(e) • Minn. Stat. § 260C.201, subd. 11(d)(3)

	PROCEDURE	AUTHORITY
15.16.	<p>NEXT HEARING</p> <p>A. TPR MATTERS – POST-TPR REVIEW HEARINGS. If the Court terminates parental rights, the court shall conduct a permanency review hearing at least every 90 days for the purpose of reviewing progress toward adoption (see Chapter 17).</p> <p>B. LONG TERM FOSTER CARE MATTERS. If the Court orders the child placed in long term foster care, the court shall conduct a permanency review hearing at least every 12 months to determine the future status of the child using the review requirements of Minn. Stat. § 260C.201, subd. 11(g) (see Chapter 17). Such annual reviews shall continue for as long as the child remains in long term foster care. The Court shall retain jurisdiction through the child's minority, unless the court extends jurisdiction to age 19 as permitted under Minn. Stat. § 260C.193, subd. 6, which provides that jurisdiction of the court shall continue until the individual becomes 19 years of age if the court determines it is in the best interest of the individual to do so.</p> <p>C. TRANSFER OF PERMANENT LEGAL AND PHYSICAL CUSTODY. If the court transfers permanent legal and physical custody to a relative, juvenile court jurisdiction is terminated unless specifically retained by the court in its order. The court may order further in-court hearings at such intervals as it determines to be in the best interests of the child.* The court may maintain jurisdiction over the responsible social services agency, the parents or legal custodian of the child, the child, and the permanent legal and physical custodian for purposes of ensuring that appropriate services are delivered to the child and permanent legal custodian or for the purpose of ensuring that conditions ordered by the court related to the care and custody of the child are met. When juvenile court jurisdiction is terminated, the court shall include an order directing the juvenile court administrator to file the order with the family court. Any further proceedings shall be brought in the family court pursuant to Minn. Stat. § 518.18.</p> <p><i>*Best Practice: Transfer of permanent legal and physical custody of the child to a relative may involve a period of transition when the child does not know the relative well or has not previously lived with the relative. Under such circumstances, it is best practice to maintain jurisdiction and order review hearings for a period of up to ninety (90) days to ensure that the transition is going as planned and child's needs are being met.</i></p>	<ul style="list-style-type: none"> • RJPP 43.03, subd. 1 • Minn. Stat. § 260C.201, subd. 11(f)(3) • RJPP 43.03, subd. 2(b) • Minn. Stat. § 260C.201, subd. 11(g) • RJPP 43.03, subd. 2(c) (jurisdiction though minority) • Minn. Stat. § 260C.193, subd. 6 (jurisdiction may be extended to age 19) • RJPP 42.05, subd. 2(b) • Minn. Stat. § 260C.201, subd. 11(f)(2)

	PROCEDURE	AUTHORITY
15.17.	<p>NOTICE OF SUBSEQUENT HEARINGS</p> <p>The court administrator shall serve upon each party, participant, and attorney a notice of the date, time, and location of the next hearing. The notice shall be:</p> <ol style="list-style-type: none"> 1. Delivered at the close of the hearing (if written notice is delivered at the end of the hearing, later written notice is not required), 2. Mailed at least five (5) days before the date of the next hearing, or 3. Mailed ten (10) days before the date of the hearing if mailed to an address outside the state. <p><i>Comment: The Notice of Subsequent Hearing form located on CourtNet complies with the above content requirements:</i> http://courtnet.courts.state.mn.us/courtnetforms/Default.aspx?category=43#category7</p>	RJPP 32.04