

CHAPTER 20

VOLUNTARY PLACEMENT MATTERS

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	PROCEDURE	AUTHORITY
	VOLUNTARY PLACEMENT MATTERS – GENERALLY	
20.01	<p>JURISDICTION</p> <p>A. ED/DD PLACEMENT. The court assumes jurisdiction to review a voluntary foster care placement of a child in placement due solely to the child’s developmental disability or emotional disturbance, pursuant to Minn. Stat. § 260C.212, subd. 9, upon the filing of a report or petition pursuant to the requirements of Minn. Stat. § 260C.141, subd. 2a.</p> <p>B. OTHER VOLUNTARY PLACEMENT. The court assumes jurisdiction to review other types of voluntary foster care placements pursuant to Minn. Stat. § 260C.212, subd. 8, upon the filing of a petition pursuant to Minn. Stat. § 260C.141, subd. 2.</p>	<ul style="list-style-type: none"> • RJPP 44.01, subd. 2 • Minn. Stat. § 260C.212, subd. 9 • RJPP 44.01, subd. 2 • Minn. Stat. § 260C.212, subd. 8
	CHILD IN PLACEMENT DUE TO DEVELOPMENTAL DISABILITY OR EMOTIONAL DISTURBANCE	
20.02	<p>COURT REPORT</p> <p>A. TIMING OF REPORT. In the case of a child in voluntary foster care placement due solely to the child’s disability, a written report shall be filed with the court within 165 days of the date of the voluntary placement agreement.</p> <p>B. CONTENT OF REPORT. A written report shall contain:</p> <ol style="list-style-type: none"> 1. A statement of facts that necessitate the child’s foster care placement; 2. The child’s name, date of birth, race, gender, and current address; 3. The names, race, date of birth, residence, and post office addresses of the child’s parents or legal custodian; 4. A statement regarding the child’s eligibility for membership or enrollment in an Indian tribe and the agency’s compliance with applicable provisions of Minn. Stat. § 260.751 to 260.835; 5. The names and addresses of the foster parents or chief administrator of the facility in which the child is placed, if the child is not in a family foster home or group home; 6. A copy of the out-of-home placement plan required under Minn. Stat. § 260C.212, subd. 1; 7. A written summary of the proceedings of any administrative review required under Minn. Stat. § 260C.212, subd. 7; and 8. Any other information the responsible social services agency, parent or legal custodian, the child or the foster parent or other residential facility wants the court to consider. 	<ul style="list-style-type: none"> • RJPP 44.02, subd. 1(a)(1) • Minn. Stat. § 260C.141, subd. 2a • RJPP 44.02, subd. 1(a)(1) • Minn. Stat. § 260C. 141 subd. 2a(1)(i)

	PROCEDURE	AUTHORITY
	<p>20.02 Court Report (continued)</p> <p>C. ATTACHMENTS TO REPORT. A written report shall attach:</p> <ol style="list-style-type: none"> 1. Child's Individual Treatment Plan or Intervention Plan developed by the child's treatment professional, as provided in Minn. Stat. § 245.4871, subd. 21, or the child's individual interagency intervention plan, as provided in Minn. Stat. § 125A.023, subd. 3(c). 2. Child's Individual Service Plan and Program Plan as provided in Minn. Stat. § 256B.092, subd. 1(b). 3. Child's individual program plan as provided in Minnesota Rule 9525.0004, subd. 11. 4. Child's waiver care plan or child's individual interagency intervention plan as provided in Minn. Stat. § 125A.023, subd. 3(c). <p>D. ADDITIONAL REQUIREMENTS FOR COURT REPORT. In addition to filing the report with the court, the responsible social services agency must provide to the child, parent or legal custodian, and foster parent or representative of the residential facility a statement that the agency has provided notice that:</p> <ol style="list-style-type: none"> 1. They have the right to submit information to the court or to be heard in person by the court; 2. They have received the date the court report will be filed with the court and the identifying information necessary for the court administrator to accept information from the child, parent or legal custodian, the foster parent, or representative of the residential facility in the event they wish to submit any information to the court; and 3. No hearing will be held unless the child, parent or legal custodian, or foster parent or representative of the residential facility requests a hearing. 	<ul style="list-style-type: none"> • RJPP 44.02, subd. 1(a)(1) • Minn. Stat. § 260C.141, subd. 2a(1)(i) • RJPP 44.02, subd. 1(a)(2) • Minn. Stat. § 260C.141, subd. 2a(1)(ii)
20.03	<p>HEARING REQUIRED ONLY IF REQUESTED</p> <p>If the parent or legal custodian, foster parent or representative of the residential facility, or the child requests to be heard in person by the court, the county attorney must notify the court administrator of the request. The court administrator shall set a hearing before the court and send notice to the parent or legal custodian, the child, the responsible social services agency, and the foster parent or representative of the residential facility.</p>	<ul style="list-style-type: none"> • RJPP 44.02, subd. 1(a)(3) • Minn. Stat. § 260C.141, subd. 2a(1)(ii)

	PROCEDURE	AUTHORITY
20.04	<p>JUDICIAL DETERMINATIONS AFTER REPORT OR HEARING</p> <p>A. TIMING AND DETERMINATIONS. After receiving the required report or after conducting a hearing if one was requested, the court has jurisdiction to make the following determinations and must do so within ten (10) days of receiving the forwarded report:</p> <ol style="list-style-type: none"> whether the placement of the child in foster care is in the child's best interests; and whether the parent and agency are appropriately planning for the child. <p>B. PROCESS IF PLACEMENT IS IN CHILD'S BEST INTEREST. If the court finds the placement of the child in foster care is in the child's best interests and that the agency and parent are appropriately planning for the child, the court shall issue an order containing explicit, individualized findings to support its determination. The court shall send a copy of the order to the county attorney, the responsible social services agency, the parent or legal custodian, the child, and the foster parents. The court shall also send the parent or legal custodian, the child, and the foster parent notice of the hearing required under RJPP 44.02, subd. 1(b).</p> <p>C. PROCESS IF PLACEMENT NOT IN CHILD'S BEST INTERESTS. If the court finds continuing the placement of the child in foster care not to be in the child's best interests or that the agency or the parent or legal custodian is not appropriately planning for the child, the court shall notify the county attorney, the responsible social services agency, the parent or legal custodian, the foster parent, the child, and the county attorney of the court's determinations and the basis for the court's determinations.</p>	<ul style="list-style-type: none"> • RJPP 44.02, subd. 1(a)(4)(i) • Minn. Stat. § 260C.141, subd. 2a(1)(iii) <ul style="list-style-type: none"> • RJPP 44.02, subd. 1(a)(4)(ii) • Minn. Stat. § 260C.141, subd. 2a(1)(iv) <ul style="list-style-type: none"> • RJPP 44.02, subd. 1(a)(4)(iii) • Minn. Stat. § 260C.141, subd. 2a(1)(v)
20.05	<p>PETITION WHEN CHILD IN PLACEMENT 13 MONTHS</p> <p>A. TIMING. If a child continues in foster care for thirteen (13) consecutive months from the date of the voluntary placement due solely to the child's developmental disability or emotional disturbance, a petition shall be filed alleging the child to be in need of protection or services, for termination of parental rights, or for permanent placement of the child away from the parent under Minn. Stat. § 260C.201.</p> <p><i>Comment: If a termination of parental rights or other petition for permanent placement of the child away from the parent is filed, the matter proceeds under Minn. Stat. § 260C.201, subd. 11.</i></p>	<ul style="list-style-type: none"> • RJPP 44.02, subd. 1(b)(1) • Minn. Stat. § 260C.141, subd. 2a(2) <p>Minn. Stat. § 260C.141, subd. 2a(2)(v)</p>

	PROCEDURE	AUTHORITY
	<p>20.05 Petition When Child In Placement 13 Months (continued)</p> <p>B. CONTENT. A petition alleging the child to be in need of protection or services shall state:</p> <ol style="list-style-type: none"> 1. the date of the voluntary placement agreement; 2. the nature of the child's developmental disability or emotional disturbance; 3. the plan for the ongoing care of the child; 4. the parents' participation in the plan, and 5. the statutory basis for the petition. <p>C. MOTION TO MODIFY ADJUDICATION AND TRANSFER OF CUSTODY ORDER FOR A CHILD WHO CONTINUES IN PLACEMENT DUE SOLELY TO CHILD'S DISABILITY. A motion by the responsible social services agency under RJPP 42.06 may be filed when the matter was commenced by a petition alleging the child to be in need of protection or services due to conditions in the home of the parent or legal custodian which led to the foster care placement of the child and those conditions have been corrected such that the child could safely return home except for the continued need for foster care placement due solely to the child's emotional disturbance or developmental disability.</p> <p><i>Note: The motion must be brought by the social services agency and is appropriate only in cases where the sole reason the child remains in placement is to access services due to the child's disability. The parent must execute a voluntary placement agreement with the responsible social services agency in order for the child to remain in placement. When the court approves the "continued voluntary arrangement" under 12.06, it is this voluntary arrangement the court is approving.</i></p>	<ul style="list-style-type: none"> • RJPP 44.01, subd. 1(c)(1) • Minn. Stat. § 260C.141, subd. 2a(2) • RJPP 44.02, subd. 1(c)(1) • Minn. Stat. § 260C.141, subd. 2a(2)(iv)
20.06	<p>PERMANENCY HEARING WHEN CHILD IN PLACEMENT 13 MONTHS</p> <p>A. TIMING OF HEARING. If a child continues for thirteen (13) consecutive months from the date of the voluntary placement due solely to the child's developmental disability or emotional disturbance, upon the filing of a permanency petition and no later than fourteen (14) months after the date of the voluntary placement, the court shall conduct a permanency hearing to determine the child's permanent placement.</p>	<ul style="list-style-type: none"> • RJPP 44.02, subd. 1(b)(1) • Minn. Stat. § 260C.141, subd. 2a(2)

	PROCEDURE	AUTHORITY
	<p>20.06 Permanency Hearing When Child In Placement 13 Months (continued)</p> <p>B. DETERMINATIONS. At the permanency hearing, the court, upon review of the petition and after inquiring of the parties, shall determine:</p> <ol style="list-style-type: none"> 1. the need for an order permanently placing the child away from the parent; 2. whether there are compelling reasons that continued voluntary placement is in the child's best interests; and 3. whether the responsible social services agency has made reasonable efforts to finalize a permanent plan for the child. <p>C. DECISION. If a petition alleging the child to be in need of protection or services is filed, based on the contents of the petition and the agreement of all parties, including the child where appropriate, and without requiring any party to admit or deny the petition or respond to the motion by the responsible social services agency, the court may:</p> <ol style="list-style-type: none"> 1. find that there are compelling reasons that the voluntary foster care arrangement is in the best interests of the child; 2. approve continued voluntary placement in foster care; 3. find that the responsible social services agency has made reasonable efforts to finalize a permanent plan for the child; and 4. continue the matter under the court's jurisdiction for the purpose of reviewing the child's placement in foster care as a continued voluntary arrangement every 12 months as long as the child remains in foster care. 	<ul style="list-style-type: none"> • RJPP 44.02, subd. 1(b)(2) • Minn. Stat. § 260C.141, subd. 2a(2)(i) • RJPP 44.02, subd. 1(c)(2) • Minn. Stat. § 260C.141, subd. 2a(2)(i)
20.07	<p>DISAGREEMENTS WITH VOLUNTARY PLACEMENT</p> <p>If any party, including the child, disagrees with the voluntary arrangement, the court shall proceed under Minn. Stat. § 260C.163 and RJPP 30 (Emergency Protective Care Hearing) or RJPP 34 (Admit/Deny Hearing), whichever is applicable.</p>	<ul style="list-style-type: none"> • RJPP 44.02, subd. 1(c)(3) • Minn. Stat. § 260C.141, subd. 2a(3)
20.08	<p>ADJUDICATION AND TRANSFER OF CUSTODY PROHIBITED</p> <p>No adjudication that the child is in need of protection or services shall be made or be entered and no transfer of legal custody under Minn. Stat. § 260C.201, subd. 1, shall be ordered as a result of a permanency hearing conducted regarding the continued voluntary placement of a child in placement due solely to the child's disability. If a motion by the responsible social services agency under RJPP 42.06 is granted for compelling</p>	<ul style="list-style-type: none"> • RJPP 44.02, subd. 1(c)(4) • Minn. Stat. § 260C.141, subd. 2a(2)(ii)

	PROCEDURE	AUTHORITY
	<p>20.08 Adjudication and Transfer of Custody Prohibited (continued)</p> <p>reasons and the court finds that continued foster care is necessary due solely to the child's emotional disturbance or developmental disability, the court shall vacate the adjudication and the order transferring legal custody to the responsible social services agency.</p>	<ul style="list-style-type: none"> • RJPP 44.02, subd. 1(c)(4) • Minn. Stat. § 260C.141, subd. 2a(2)(ii)
20.09	<p>ANNUAL REVIEW HEARING</p> <p>A. TIMING. If the court approves the voluntary placement, the matter must be returned to the court for review at least every twelve (12) months from the date of the permanency hearing as long as the child remains in foster care. The court shall give notice to the parent or legal custodian of this continued review requirement by registered mail or on the record at the time of the permanency hearing.</p> <p>B. DETERMINATIONS. Upon conclusion of the review hearing the court shall determine whether the continued voluntary arrangement is in the best interests of the child and whether the agency has made reasonable efforts to:</p> <ol style="list-style-type: none"> 1. identify a specific long-term foster home or residential facility for the child, if one has not already been identified; 2. support continued placement of the child in the identified home or residential facility, if one has been identified; 3. ensure appropriate services are being provided to the child; 4. upon the child becoming age sixteen (16), plan for the child's transition to an appropriate living arrangement and for appropriate services once the child reaches age eighteen (18). 	<ul style="list-style-type: none"> • RJPP 44.02, subd. 1(d) • Minn. Stat. § 260C.141, subd. 2a(2)(iii) <p>RJPP 44.02, subd. 1(d)</p>
20.10	<p>PERMANENT PLACEMENT AWAY FROM THE PARENT BY COURT ORDER PROHIBITED WHEN COURT APPROVES VOLUNTARY ARRANGEMENT</p> <p>When the court finds compelling reasons and approves the continued voluntary arrangement for placement of a child in foster care due solely to the child's developmental disability or emotional disturbance, the court must not order permanent placement for the child under Minn. Stat. § 260C.201, subd. 11, and RJPP 42.</p>	<ul style="list-style-type: none"> • RJPP 44.02, subd. 1(e) • Minn. Stat. § 260C.141, subd. 2a(2)(ii)

	PROCEDURE	AUTHORITY
	OTHER VOLUNTARY PLACEMENTS – REASONS OTHER THAN THE CHILD’S DISABILITY	
20.11	<p>PETITION</p> <p>A. TIMING. In the case of a child in voluntary foster care placement for reasons other than the child’s disability pursuant to Minn. Stat. § 260C.212, subd. 8, a petition shall be filed within ninety (90) days of the date of the voluntary placement agreement.</p> <p>B. CONTENT. The petition shall state:</p> <ol style="list-style-type: none"> 1. The reasons why the child is in placement; 2. The progress on the case plan required pursuant to Minn. Stat. § 260C.212, subd. 1; and 3. The statutory basis for the petition pursuant to Minn. Stat. § 260C.007, subd. 6; § 260C.201, subd. 11; or § 260C.301. 	<ul style="list-style-type: none"> • RJPP 44.02, subd. 2(a) • Minn. Stat. § 260C.141, subd. 2 • RJPP 44.02, subd. 2(a) • Minn. Stat. § 260C.141, subd. 2
20.12	<p>CALCULATING TIME PERIOD</p> <p>When a child is placed in foster care for reasons other than the child’s disability pursuant to Minn. Stat. § 260C.212, subd. 8, the time period the child is considered to be in foster care for purposes of determining whether to proceed pursuant to Minn. Stat. § 260C.201, subd. 11, is sixty (60) days after the voluntary placement agreement is signed, or the date the court orders the child in protective care, whichever is earlier.</p>	<ul style="list-style-type: none"> • RJPP 44.02, subd. 2(f) • Minn. Stat. § 260C.201, subd. 11
20.13	<p>HEARING</p> <p>The matter shall be set for hearing within twenty (20) days of service of the petition.</p>	RJPP 44.02, subd. 2(b)
20.14	<p>FINDINGS</p> <p>If all parties agree and the court finds that it is in the best interests of the child, the court may find the petition states a prima facie case that:</p> <ol style="list-style-type: none"> 1. the child’s needs are being met; 2. the placement of the child in foster care is in the best interests of the child; 3. reasonable efforts to reunify the child and the parent or legal custodian are being made; and 4. the child will be returned home in the next ninety (90) days. 	<ul style="list-style-type: none"> • RJPP 44.02, subd. 2(c) • Minn. Stat. § 260C.141, subd. 2(1)
20.15	<p>APPROVAL OF PLACEMENT</p> <p>If the court makes the findings required in section 12.14, the court shall approve the voluntary placement arrangement without requiring any party to admit or deny the petition and continue the matter for ninety (90) days to assure the child returns to the parent’s home.</p>	<ul style="list-style-type: none"> • RJPP 44.02, subd. 2(d) • Minn. Stat. § 260C.141, subd. 2(2)

	PROCEDURE	AUTHORITY
20.16	<p>FURTHER PROCEEDINGS</p> <p>A. CHILD RETURNS HOME IN 90 DAYS. The responsible social services agency shall report to the court when the child returns home and the progress made by the parent on the case plan required pursuant to Minn. Stat. § 260C.212, subd. 1.</p> <p>B. CHILD DOES NOT RETURN HOME IN 90 DAYS. If the child does not return home within the ninety (90) days approved by the court, the matter shall be returned to court for further proceedings pursuant to RJPP 34 (Admit/Deny Hearing).</p> <p>C. DISAGREEMENT WITH PLACEMENT – ADMIT/DENY HEARING. If the court or any party, including the child, disagrees with the voluntary placement or the sufficiency of the services offered by the responsible social services agency, or if the court finds that the placement or case plan is not in the best interests of the child, the court shall direct the parties to admit or deny the petition and set the matter for further proceedings pursuant to RJPP 36 or 39. After the parties admit the petition or the petition is proven at trial, the court may determine that the child is in need of protection or services or withhold adjudication pursuant to RJPP 40. When the court determines the child is in need of protection or services, the court may make orders pursuant to Minn. Stat. § 260C.201 or § 260C.205. When the court determines the child is in need of protection or services or withholds such a determination, further proceedings shall be pursuant to RJPP 41.</p>	<ul style="list-style-type: none"> • RJPP 44.02, subd. 2(e)(1) • Minn. Stat. § 260C.141, subd. 2(2)(i) • RJPP 44.01, subd. 2(e)(1) • Minn. Stat. § 260C.141, subd. 2(2)(ii) • RJPP 44.01, subd. 2(e)(2) • Minn. Stat. § 260C.141, subd. 2(2)(iii) • RJPP 44.02, subd. 3