

CHAPTER 31

CONCURRENT PERMANENCY PLANNING

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APPENDIX

- Appendix A: DHS Practice Guide for Concurrent Permanency Planning**

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	DISCUSSION	AUTHORITY
31.01	<p>OVERVIEW</p> <p>Using the permanency timelines to stress the urgency of timely decisions from the child’s standpoint, concurrent permanency planning maximizes the opportunity for permanency and stability for a child by simultaneously planning for the two possible outcomes for permanency for the child:</p> <ul style="list-style-type: none"> • Reunification or • Placement in another legally permanent home. 	Minn. Stat. § 260C.213, subd. 1
31.02	<p>MANDATED PROGRAM</p> <p>The Commissioner of Human Services is mandated to establish a program for concurrent permanency planning for child protection services.</p> <p>Concurrent permanency planning was established by the Minnesota Legislature in 1998 as part of a new emphasis on the importance of permanency and stability for children in foster care.</p> <p>Concurrent permanency planning is consistent with Minnesota statutes and court rules which emphasize timely decisions regarding the permanent placement of children in foster care by establishing timelines for the court to make required decisions.</p>	<p>Minn. Stat. § 260C.213, subd. 1(a)</p> <p>1998 Minn. Laws 405, art. 2, § 2</p> <ul style="list-style-type: none"> • Minn. Stat. § 260C.201, subd. 11 • RJPP 4.03 • RJPP 34.03, subd. 2 • RJPP 42
31.03	<p>WHAT IS CONCURRENT PERMANENCY PLANNING?</p> <p>Under concurrent, rather than sequential, permanency planning, the county social services agency is responsible for doing two things at the same time – both of which are designed to achieve timely permanency for the child:</p> <ol style="list-style-type: none"> 1. Make reasonable efforts for reunification of the child with the parent from whom the child was removed, if required by Minn. Stat. § 260.012; and 2. Place the child with a concurrent permanency planning “resource family” that will: <ul style="list-style-type: none"> • assume care of the child; • assist and support reunification; and • commit to being the legal parent or custodian in the event the child cannot return to the child’s parent. 	<p>Minn. Stat. § 260C.213, subd. 1(b)</p> <p><i>Practice Guide for Concurrent Permanency Planning</i>, p. 2 (Minn. Dept. of Human Services) (See Appendix A)</p>
31.04	<p>WHY IS CONCURRENT PERMANENCY PLANNING BEST PRACTICE?</p> <p>Concurrent permanency planning recognizes:</p> <ul style="list-style-type: none"> • Reasonable efforts for reunification are ingrained in child protection system stakeholders as best practice for children in foster care; 	<ul style="list-style-type: none"> • Minn. Stat. § 260C.213 • <i>Practice Guide for Concurrent Permanency Planning</i>, p. 2-3 (Minn. Dept. of

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	<p>31.04 Why is concurrent permanency planning best practice? (continued)</p> <ul style="list-style-type: none"> • While reunification efforts for reunification are best practice for most cases, there are some cases where it is not an appropriate practice to ensure the child's safety (see Chapter 28 on by-passing reunification in certain case types); and • The particular vulnerability of young children to the ill effects of foster care drift and the need to support social work practice that achieves timely permanency for the child whether the child can be returned home or not. 	Human Services) (See Appendix A)
31.05	<p>GOALS OF CONCURRENT PERMANENCY PLANNING</p> <p>A. Goals: The goals of concurrent permanency planning are to:</p> <ol style="list-style-type: none"> 1. Achieve early permanency for children either through reunification or placement in another legally permanent home through adoption or transfer of permanent legal and physical custody; 2. Decrease children's length of stay in foster care and reduce the number of moves children experience in foster care; and 3. Develop a group of families who will work towards reunification and also serve as permanent families for children. <p>B. Explanation of Goals</p> <ol style="list-style-type: none"> 1. Goal One: "Permanency" for children in foster care means establishing or re-establishing safe and stable homes for children in a timely manner. Concurrent permanency planning means establishing, re-establishing, and finding safe and stable homes more quickly than ever before. Concurrent permanency planning simultaneously develops two permanency plans for children: a plan for safe reunification with a parent and a plan for permanent placement away from parents – such as in an adoptive home or with a relative who will take permanent custody – when children cannot safely return to their homes. Either way of achieving permanency for a child meets the needs of the child. 2. Goal Two: Children who are left in foster care for a long period of time or who experience multiple moves experience what has been identified as "foster care drift" by researchers Henry Maas and Richard Engler. Maas and Engler identified a set of predictable problems that children who experience foster care drift develop and these include: 	<p>Minn. Stat. § 260C.213, subd. 1(b)</p> <p>See generally <i>Practice Guide for Concurrent Permanency Planning</i>, pp. 2-3 (Minn. Dept. of Human Services) (See Appendix A)</p> <p><i>Children in Need of Parents</i>, Columbia University Press, New York (1959)</p>

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	<p>31.05 Explanation of Goals (continued)</p> <ul style="list-style-type: none"> • little conscience • poor impulse control • low self-esteem • poor relationships with peers • learning troubles • inability to parent own children <p>Decreasing the child's length of stay in foster care and the number of moves the child experiences increases the likelihood of a good outcome for the child and decreases the chance of the child developing problems associated with "foster care drift."</p> <p>3. Goal Three: "Resource families," as the families referred to in the third goal are called, are an integral part of Minnesota's Concurrent Permanency Planning Program. Resource families are specially trained and supported families who:</p> <ul style="list-style-type: none"> • provide the day-to-day care for children like a "traditional" foster family, but who also: • commit to being the permanent resource for the child, if necessary; and; • support reunification efforts with the birth family. <p>Responsible social services agencies across Minnesota work to recruit, train, and support such families. When a child is placed in a "resource family" that has been trained and is supported in partnering with the agency and the family to attend to the best interests of the child, the child is truly a winner:</p> <ul style="list-style-type: none"> • If the child returns home, the "resource family" will frequently continue to be a source of support for the child and the child's birth family; or • If the child cannot return home, the "resource family" establishes a permanent legal relationship with the child, but also frequently recognizes and supports a continued "actual" relationship with the child's birth family. 	<p>Minn. Stat. § 260C.213, subd. 1(b)</p> <p><i>Practice Guide for Concurrent Permanency Planning</i>, p. 5 (Minn. Dept. of Human Services) (See Appendix A)</p>
31.06	<p>RIGHT TO ATTEND HEARINGS AND TO BE HEARD BY RESOURCE FAMILIES AND FOSTER FAMILIES</p> <p>Resource families and foster families have the right to come to court and to be heard regarding a child in the family's care.</p> <p>Best Practice Tip: <i>Resource families and foster families should be encouraged to come to court, to share their knowledge with the court, and be recognized for the significant</i></p>	<ul style="list-style-type: none"> • Minn. Stat. § 260C.152, subd. 5 • RJPP 22.02, subd. 2

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	<p>31.06 Right to attend hearings and to be heard by Resource Families and Foster Families (continued)</p> <p><i>contribution they make to the child's well-being. Having resource families participate in the court proceedings reinforces resource families' role as team members working toward the best interests of the children. As part of encouraging and enabling resource families and foster families to come to court, the agency must keep the court apprised of the name and address of the current resource or foster family so the court administrator can send the required notice.</i></p>	<ul style="list-style-type: none"> • RJPP 22.03 (petitioner required to provide address) • RJPP 32.04 (recipients of notice of hearing)
31.07	<p>PARENTAL ENGAGEMENT, FULL DISCLOSURE, AND CASE PLANNING</p> <p>A. Parental Engagement. The responsible social services agency must involve parents in concurrent permanency planning.</p> <p>B. Full Disclosure to Parents. The responsible social services agency must fully apprise parents of:</p> <ul style="list-style-type: none"> • their rights and responsibilities; • the goals of concurrent permanency planning; • the availability of support services for the parents and family; • the permanency options for the child; and • the consequences of the parent's failure to comply with the case plan in a timely manner. <p>C. Parent Involvement in Case Planning. Ideally, concurrent permanency planning, as is all case planning, is most effectively done in partnership with the parents of the child, the agency, and other stakeholders, including the guardian ad litem and the Indian child's tribe when the matter is governed by the Indian Child Welfare Act. The idea of partnership means that the agency fully discloses its obligation to provide the parent with services and to plan for the alternative in the event reunification services are not successful in remediating the necessity of the child's removal from the home under statutory timelines. The agency should fully discuss service options, the importance of early engagement in services, and the right to have relatives considered or, in the case of an Indian child, for relatives to be given preference, regarding the child's out of home placement. The agency must also be clear that services for the parent will be available from the beginning if the child's placement, but that the court will not order</p>	<ul style="list-style-type: none"> • Minn. Stat. § 260C.213, subd. 3 • Minn. Stat. § 260C.212, subd. 1(b) • Minn. Stat. § 260C.213, subd. 3 • Minn. Stat. § 260C.178, subd. 7 • RJPP 37.02, subd. 3 • Minn. Stat. § 260C.212, subd. 5 (relative search) • 42 U.S.C. § 1915

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	<p>31.07 Parent Involvement in Case Planning (continued)</p> <p>parent's participation in services until or unless the petition is admitted or proven.</p> <p><i>Best Practice Tip: The court should support and encourage the parent to participate in case planning and acceptance of services early in the case. At the same time, the court must explain that a case plan cannot be ordered until the petition is admitted or proven, but the court can approve the agency's efforts to implement the case plan based on the content of the petition alleging the child to be in need of protection or services. It is important that parents understand they do not have to accept services, but that this refusal or deferral does not stop the clock from running on the amount of time they have to use the services to achieve reunification and that, when the case is a concurrent permanency planning case, simultaneous planning for an alternative to reunification will proceed.</i></p>	<ul style="list-style-type: none"> • Minn. Stat. § 260C.178, subd. 7 • RJPP 37.02, subd. 4
31.08	<p>COURT'S RESPONSIBILITY TO REVIEW BOTH PLANS UNDER CONCURRENT PERMANENT PLANNING</p> <p>Reasonable efforts to place a child for adoption or in another permanent placement may be made concurrently with reasonable efforts to prevent placement or to reunify the child with the parent or guardian from whom the child was removed. When the responsible social services agency decides to concurrently make reasonable efforts for both reunification and permanent placement away from the parent, the agency must disclose its decision and both plans for concurrent reasonable efforts to all parties and the court. When the agency discloses its decision to proceed on both plans for reunification and permanent placement away from the parent, the court's review of the agency's reasonable efforts shall include the agency's efforts under both plans.</p>	Minn. Stat. § 260.012(k)
31.09	<p>REASONABLE EFFORTS REQUIRED</p> <p>The court must ensure that the agency makes reasonable efforts to finalize the permanent plan for the child. "Reasonable efforts to finalize a permanent plan for the child" means due diligence by the responsible social services agency to:</p> <ol style="list-style-type: none"> 1. Reunify the child with the parent or guardian from whom the child was removed; 2. Assess a noncustodial parent's ability to provide day-to-day care for the child and, where appropriate, provide services necessary to enable the noncustodial parent to safely provide the care, as required under Minn. Stat. § 260C.212, subd. 4; 	<ul style="list-style-type: none"> • Minn. Stat. § 260.012(a) (requirement of reasonable efforts) • Minn. Stat. § 260C.012(e) (definition of reasonable efforts)

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	<p>31.09 Reasonable Efforts Required (continued)</p> <p>3. Conduct a relative search as required under Minn. Stat. § 260C.212, subd. 5; and</p> <p>4. When the child cannot return to the parent or guardian from whom the child was removed, to plan for and finalize a safe and legally permanent alternative home for the child, preferably through adoption or transfer of permanent legal and physical custody of the child.</p> <p><i>Comment:</i> Unless the matter is a type which permits the bypass of reunification efforts (see Chapter 28), the court should review the reasonable efforts of the agency at each stage of the proceedings and expect the agency to report on:</p> <ul style="list-style-type: none"> • the agency's progress in delivering services which are designed to permit the child to safely return to the parent from whom the child was removed; • what the agency has done to identify both parents (if the identity of both parents is not known), to locate any missing parents, and to assess both parents' ability to provide day-to-day care of the child; if a parent is not a custodial parent, but could provide day-to-day care of the child, the court may order the child into the home of that parent; • the agency's efforts to identify and work with relatives of the child, including both maternal and paternal relatives regarding the relatives' ability to be a concurrent permanency planning "resource family" for the child; and • what efforts the agency has made to make and support the placement of the child in a home that can be a "resource family" for the child and birth family. <p><u>Best Practice:</u> <i>At every hearing, the court should review:</i></p> <ul style="list-style-type: none"> • <i>the services being offered and delivered to the parent;</i> • <i>the services being delivered to the child;</i> • <i>the parent's progress in accepting the services and in mitigating the conditions which caused the child's removal from the home; and</i> • <i>when the matter is a concurrent permanency planning case, what progress has been made to identify and place the child with a "resource family."</i> <p><i>If there are problems with service delivery or barriers to the parents being able to engage in services, the court should ask the agency to address those problems and should remind the parent about the timelines and the importance of utilizing services to achieve reunification and of working with the agency to plan for an alternative home in the event reunification cannot be achieved.</i></p>	<ul style="list-style-type: none"> • Minn. Stat. § 260.012(a) (requirement of reasonable efforts) • Minn. Stat. § 260C.012(e) (definition of reasonable efforts) • Minn. Stat. § 260C.201, subd. 1(a)(1) (placement in home of noncustodial parent) • RJPP 41.05, subd. 2(a)(1) (placement in home of noncustodial parent) • Minn. Stat. § 260C.212, subd. 5 (relative search)

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31.10	<p>BIRTH PARENTS AND CONCURRENT PERMANENCY PLANNING RESOURCE FAMILIES</p> <p>In concurrent permanency planning cases, the judge reviews both the agency's efforts to deliver services aimed at reunification and the agency's efforts to ensure there is an appropriate alternative permanent home for the child if reunification cannot be achieved. However, these two homes never legally compete with each other. Minnesota case law clearly creates a presumption of parental fitness. If terminating parental rights or ordering other permanent placement away from the parent, the responsible social services agency must overcome this presumption by the appropriate standard of proof:</p> <ul style="list-style-type: none"> • clear and convincing for all cases, except termination of parental rights matters governed by ICWA; or • beyond a reasonable doubt for termination of parental rights matters governed by ICWA. <p>This means the court must find proven at least one ground to terminate parental rights as set out at Minn. Stat. § 260C.301 and must find that termination is in the child's best interests. The appropriateness of the alternative home is considered only when the court finds that there are grounds to terminate and that it is in the child's best interest to terminate.</p>	<ul style="list-style-type: none"> • Minn. Stat. § 260.012(f) • Minn. Stat. § 260C.201, subd. 2 (c) <p><i>In Re Welfare of David R. Clausen</i>, 289 N.W. 2d 153, 156 (Minn. 1980)</p> <ul style="list-style-type: none"> • RJPP 39.04 (standard of proof) • 42 U.S.C. § 1921 (ICWA standard of proof) <ul style="list-style-type: none"> • Minn. Stat. § 260C.301, subds. 1(b), 7 • <i>In Re Welfare of the Children of R.W.</i>, 678 N.W.2d 49 (Minn. 2004)
31.11	<p>PLANNING FOR PERMANENT PLACEMENT AWAY FROM THE PARENT MANDATED IN REUNIFICATION BY-PASS CASES</p> <p>In cases which permit the responsible social services agency to by-pass reunification efforts and which mandate the county attorney to file a petition to terminate parental rights (See Benchbook Chapter 28), the agency must concurrently identify, recruit, process, and approve an adoptive family for the child.</p> <p><i>Comment: Strictly speaking, Minn. Stat. § 260C.301, subd. 3, which mandates that the agency plan for the permanent placement away from the parent under by-pass cases is NOT concurrent permanency planning because the agency is "bypassing" reunification efforts. The "concurrent" language mandates that the agency look for an adoptive home even though the termination petition is pending. This does not, however, dictate the ultimate outcome. The agency must advise any potential adoptive home that the child is not legally free for adoption until and unless the court orders termination.</i></p>	Minn. Stat. § 260C.301, subd. 3

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	<p>31.11 Planning for Permanent Placement Away from the Parent Mandated in Reunification By-pass Cases (continued)</p> <p><i>Best Practice Tip: Trial is required within 90 days of the filing of a termination of parental rights petition. Best practice is to ensure that the matter timely comes to trial on a termination petition as required under Minn. Stat. § 260C.301, subd. 3, because the birth parents, any prospective adoptive parents, and the child are all in limbo awaiting the court's determination regarding the petition.</i></p>	RJPP 39.02, subd. 1(c)
31.12	<p>DETAILS OF CONCURRENT PERMANENCY PLANNING</p> <p>More information regarding concurrent permanency planning and working with birth and "resource families" can be found at http://edocs.dhs.state.mn.us/lfserver/Legacy/DHS-4778-ENG</p> <p>Information about outcomes related to the goals of concurrent permanency planning can be found in the <i>Practice Guide for Concurrent Permanency Planning</i> published by the Minnesota Department of Human Services attached as Appendix A or also found at:</p> <p>http://www.dhs.state.mn.us/main/idcplg?IdcService=GET_FILE&RevisionSelectionMethod=LatestReleased&Rendition=Primary&allowInterrupt=1&noSaveAs=1&dDocName=dhs_id_005311</p>	