

Guidance During COVID-19

Minnesota's Children's Justice Initiative (CJI) Advisory Committee members recognize the COVID-19 pandemic is creating unique challenges for courts and local child welfare agencies to ensure children involved with the court system achieve timely permanency, following the Centers for Disease Control guidance and recommendations for social distancing.


CJI's mission is to ensure that abused and neglected children involved in the child protection system have safe, stable, permanent families, and improved well-being. The attached CJI Guidance was developed to provide assurance that Minnesota meets requirements for achieving timely permanency for children, while attempting to reduce the impact of the COVID-19 pandemic.

This Guidance provides assistance with implementing laws regarding the best interests of children and suggesting procedures that protect children. It also provides instruction for the continued duties of child welfare agencies and the courts to meet reasonable and active efforts, ensuring that substantive and due process rights of children, their parents, and other parties and participants are protected.

Thank you for your continued commitment to our most vulnerable Minnesotans during these serious and challenging times. Your dedication to providing excellent work is recognized and greatly appreciated.

If you have questions or comments regarding the attached guidance, please contact Children's Justice Initiative staff at CJI@courts.state.mn.us.

Best Regards,



Justice Anne McKeig
CJI Advisory Committee Co-Chair
MN Supreme Court



Jamie Sorenson
CJI Advisory Committee Co-Chair
MN Department of Human Services

Stay Updated

The most up to date information regarding the activities of our collaboration related to COVID-19 are located below and each offers the opportunity to sign up for ongoing email updates:

MN Judicial Branch: <http://mncourts.gov/Emergency.aspx>

MN DHS: <https://mn.gov/dhs/>

MN DHS Bulletins: <https://mn.gov/dhs/general-public/publications-forms-resources/bulletins/>

MN Executive Orders: <https://www.leg.state.mn.us/lrl/execorders/eoresults?gov=44>

It is critical to protect the health and well-being of everyone in the absence of personal protective equipment (PPE). This document provides considerations for your team as you navigate the challenges faced by children, parents, the child welfare agency, and all court stakeholders during the time of the COVID-19 pandemic, the Governor's stay-at-home order, (Emergency Exec. Order No. 20-48, April 30, 2020), and the Judicial Branch order Continuing Operations of the Minnesota Judicial Branch under Emergency Executive Order No. 20-48 (ADM20-8001, May 1, 2020).

1. Remote Hearings and Written Submissions

("Remote hearing" means either (1) video conference or (2) phone.)

Considerations:

- EPC hearings are held per the directive of the Supreme Court Order.
- All other hearings and trials can be done remotely if all parties, participants and attorneys agree and can appear remotely.
- Written submissions and/or requests for orders are permitted and should be given a three (3) business day response period for objections or additions before being ordered by the court. The court may ask parties for proposed findings of fact, conclusions of law and orders to be submitted with written submissions and/or requests for orders.
- *Rule 11.02 of the Minnesota Rules of Juvenile Protection Procedure* and *Rule 12.02 of the Minnesota Rules of Adoption Procedure* both permit the court to hold hearings and take testimony by telephone or interactive video by agreement of the parties, or in exceptional circumstances upon motion of a party or the county attorney or on the court's own initiative.

CJI Recommendation:

In an effort to meet current public health mandates and in the absence of personal protective equipment, we support the use of video conferencing to continue to hold as many hearings and trials as possible. In the event that video conferencing is not available, or at the discretion of the judge, remote phone hearings or written submission are an acceptable alternative.

Pretrial hearings (*Rule 48*) and ADR (*Minn. Stat. § 260C.163, subd. 12*) should be used to settle as many cases as possible without going to trial. If a CHIPS, TPR or Permanency trial needs to occur, it may be conducted through a remote hearing process, ideally through video conference, but if that is not possible, then testimony may be taken by telephone under the court rules. The judge should make a record at the start of the proceeding that addresses the date, time, and method of hearing (videoconferencing, telephone), how it is being recorded for purposes of *Rule 10* of the *Minnesota Rules of Juvenile Protection Procedure* or *Rule 11* of the *Minnesota Rules of Adoption Procedure*, what procedural practices have been put in place to address the needs of the parties to fully participate, to be able to consult with counsel, and any other due process concerns raised.

2. Reasonable and Active Efforts and the 12-Month Permanency Timeline

Considerations:

- The child protection agency must continue to timely make reasonable efforts (*Minn. Stat. §§ 260.012, 260C.001, subd. 3, 260C.178*) or active efforts (*Minn. Stat. § 260.762* and the *Indian Child Welfare Act of 1978, 25 U.S.C. §1912(d)*) with consideration to the impact on extended permanency on the child waiting in foster care and the resources available to parents to work their case plan.
- The court must continue to timely make findings about the child protection agency's provision of efforts (*Minn. Stat. §§ 260C.178, 260C.201, 260C.204, 260C.221, 260C.301, 260C.504, 260C.605*).
- Federal statutes have not been revised to extend the permanency timelines because of COVID-19.

CJI Recommendation:

The duty to attend to the child’s safety, health, and best interests continues. This duty must be balanced with the right of parents to due process and to a fair chance at services or supports that address safety issues for children. In deciding what efforts can be made and whether reasonable or active efforts were made, child protection agencies and the courts should consider each individual case using the totality of the circumstances, making decisions based on the child’s best interest. Use CJI meetings to discuss the creative continued delivery of services and the safety of children during COVID-19.

Consider the child’s age and stage of development when looking at use of remote technology (i.e. prioritize using video and not only voice telephone calls if the visit is with a younger child)

Do not delay reunification or alternative permanency options for the child because of COVID-19. Reasonable/active efforts include attending to COVID-19 care provisions and ensuring children and families have access to the resources and care necessary to meet the child’s needs, recognizing this responsibility is shared with others, including the health care systems.

3. Parent/Child/Sibling Visitation/Family Time

Considerations:

- There are a variety of limitations across the state, including orders cancelling visitation/family time, closure of supervised visitation centers, concerns by foster parents, etc.
- Consistent parent/child contact and sibling visitation throughout placement mitigates trauma, facilitates attachment, and positively impacts reunification rates.
- When setting the type, frequency, and duration of visitation/family time, consider the child’s age and stage of development and corresponding frequency recommendations. See, for example, the “[Child-Focused Parenting Time Guide](#).”
- The child welfare agency has a duty to develop and implement a plan for parental visitation of and contact with the child that promotes the parent and child relationship unless the court finds that visitation would endanger the child's physical or emotional well-being. See *Minn. Stat. §§ 260C.178, and 260C.219*.
- The child has the right to participate in regular face-to-face visits with the child's siblings in foster care and, whenever possible, with the child's siblings who are not in foster care. See *Minn. Stat. §§ 260C.008 and 260C.178*.

CJI Recommendation:

Continue visitation and family time. The agency will assess for availability of personal protective equipment (PPE) to support in person visits. The lack of PPE justifies alternatives and the agency will consider virtual visits on a case-by-case basis to determine frequency, duration and conditions of visitation. The agency will determine what technology options are safe, available and appropriate in each situation. The agency will attempt to eliminate barriers for families to the tools they need for this time together and consult with peers throughout the state to learn about practices in other jurisdictions.

4. Interstate Compact on Placement of Children (ICPC)

Considerations:

- Some agencies are not accepting children coming from coronavirus hot spots.
- Background studies state waiver and federal Stafford Act flexibility (see below) will impact ICPC

CJI Recommendation:

The agency should decide on case-by-case basis whether the ICPC requirements are met for a child, regardless of whether the child is coming from a coronavirus hot spot. Explore mandated quarantine upon arrival and resources available on a short-term basis.

The agency should not delay reunification/permanency via ICPC requests or movements unless there is a valid safety concern and children/youth are provided other avenues to establish relationships to relatives/parents living in other states.

5. Keeping Children Safe at Home to Prevent Entry and Re-entry into Foster Care

Considerations:

- Protective supervision: A child may be in the care of a parent under the protective supervision of the agency under *Minn. Stat. § 260C.201, subd. 1 (a)(1)*
- Trial home visits: A child may be returned to the care of the parent from whom the child was separated under a trial home visit under *Minn. Stat. § 260C.201, subd. 1 (a) (3)*
- Safety plans for children and parents: A child may be home with conditions including that the agency has developed and implemented a safety plan with the family under *Minn. Stat. § 260C.178*
- Reunification conditions with COVID-19: The agency should work with the family to develop and implement any special conditions necessary for the child to be permanently reunified with the parent(s) if anyone has been exposed to COVID-19.

CJI Recommendation:

Safety plans should ensure older children have a safe person they can call outside of the home.

The agency should develop and communicate clear procedures for monitoring child safety as required under statute, including both in-home visits and the use of video conferencing.

The guardian ad litem will continue to monitor child safety as required under statute, including video conference.

Other Decisions and Resources to be Aware of:

Caseworker Monthly Visits with Children

Federal and state policy temporarily changed to allow videoconference for children in out-of-home care. For children remaining in the familial home, videoconferencing and telephone conferencing are permissible. DHS Bulletin 20-68-11 [Monthly Caseworker Visits Modified to Permit Videoconferencing.](#)

GAL Visits with Children

Beginning March 16, 2020, the GAL Board temporarily suspended all home visits between GALs and children until May 4th, or until further notice. The suspension of visits also includes visiting children in facilities, as well as schools and clinics. GALs are encouraged to use alternative forms of contact with children and families, such as phone, video conferencing, text, email, etc.

Temporary Modification of DHS Background Study Requirements

Some public sites for fingerprinting required for background study applications have temporarily closed in response to COVID-19. On April 6, 2020, DHS modified the background study requirements to temporarily suspend the fingerprint and photograph background study requirement and waive the requirement to supervise individuals who provide direct contact services while the background study is in process. DHS retains the authority to order supervision when required based on case-by-case decisions. Details can be found at the [DHS background studies COVID-19 webpage.](#)

On April 15, 2020, the Children’s Bureau released correspondence on the Stafford Act Flexibility for criminal background checks. The guidance directs the title IV-E agencies that wish to exercise the flexibility must:

1. Conduct all available name-based criminal background checks for prospective foster parents, adoptive parents, legal guardians, and adults working in child care institutions, and
2. Complete the fingerprint-based checks of national crime information database (NCID) pursuant to §471(a)(20)(A), (C), and (D) of the Act as soon as it can safely do so, in situations where only name-based checks were completed.

CJI Recommendation:

All stakeholders continue to monitor child safety and (even if it means delaying permanency) don’t finalize any court actions until all the completed fingerprint-based criminal background checks and out-of-state child abuse and neglect (CAN) registry checks (applicant CAN checks for the last five years if lived outside of Minnesota) are completed. This will avoid the risk of a disruption in a finalized adoption or TPLPC. i.e. a barrier crime or significant maltreatment discovered after finalizing adoption and child protection has to disrupt that placement. This will also ensure prospective adoptive parents and relative custodians can apply for Northstar Adoption Assistance and Northstar Kinship Assistance.

Conversely, if all the background checks are completed and everything is ready to go don’t delay permanency solely because an in-person hearing can’t be accomplished. Affidavits and/or video/telephonic conferencing should be explored.

Timing of Filing of Out-of-Home Placement Plans Changed from 30 days to 60 days

Effective April 19, the statute regarding the filing of out-of-home placement plans has been temporarily modified to require the plans to be filed within 60 days of the child’s removal from home rather than within 30 days of removal. The statute was also modified to eliminate the need for parents and others to sign the plan before filing it with the court. Extending the deadline to coincide with the federal deadline and modifying signature requirements will ensure out-of-home placement plans continue to include appropriate and necessary services for families, while recognizing that certain services may be delayed and in-person communications may be unavailable during the current peacetime emergency. These modifications do not alter a court’s authority to require an out-of-home placement plan be filed within the regular 30-day timeframe, or the court’s authority to require an out-of-home placement plan be signed. Details can be found at the [DHS modifications and waivers website](#). DHS has also issued [Bulletin 20-68-16: Temporary modification of out-of-home placement plans for foster children](#).

Visitation Guidance for Young Children and Technology

Video is important for younger kids, especially under age 7 because they need context, which video can help provide. Research shows even newborns recognize and prefer their mothers’ voice, so there is value even for the smallest babies.

Top tips included:

- Take a minute to get started/oriented
- Consider what will the baby share or be interested in?
- Short 15 min calls
- Have some toys and books on hand
- Read books, take photos, have snacks, play together
- Make a recording
- Additional Resources:
 - <http://centervideo.forest.usf.edu/video/qpi/ylc/mediaeffect/qpistart.html>
 - <https://www.zerotothree.org/resources/2534-screen-sense-executive-summary>
 - <https://positiveparentingnews.org/>

Creative Solutions for Access to Wi-Fi

A Salt Lake City school district is getting really creative for its students who don't have access to WIFI using a school bus. Click [here](#) for the news story.

Resources to Understand and Mitigate the Trauma of COVID-19 for Children:

- Coronavirus Book: https://nosycrow.com/wp-content/uploads/2020/04/Coronavirus_INSwith-cover.pdf
- Video Series with Dr. Bruce Perry on Stress, Distress & Trauma: <https://www.neurosequential.com/covid-19-resources>
- Article: <https://www.theatlantic.com/health/archive/2020/03/what-coronavirus-will-do-kids/608608/>
- Harvard Center on the Developing Child COVID Resources: <https://developingchild.harvard.edu/resources/covid-19-resources/>

CJI Meetings

Remote phone or video conference CJI meetings are encouraged. CJI meetings provide a good opportunity to discuss practice and policy changes related to COVID-19 to ensure stakeholders are aware and informed.

Children's Bureau Recommendations

The Federal Children's Bureau maintains a COVID-19 Website with resources and guidance: <https://www.acf.hhs.gov/cb/resource/covid-19-resources>

Here are two specific items the Children's Bureau has circulated that may be helpful to your CJI team:

- [Letter to Child Welfare Legal and Judicial Leaders](#)
- [Low or No Cost Technology Options for Virtual Participation and Contact](#)