

AAL PERMANENCY PLANNING HEARING CHECKLIST

Statutory Authority: A.C.A. '9-27-338

Purpose:

Court shall finalize a permanency plan for the juvenile based on the juvenile's best interest. **A.C.A. '9-27-338(a) &(c)**

Time constraints:

The Permanency Planning Hearing shall be held no later than 12 months after the date the child enters an out-of-home placement, or no later than 30 days after the court files a no reunification services order. The permanency planning hearing shall be held annually each year thereafter to reassess the permanency plan for the juvenile. **A.C.A. '9-27-338(a)(1)**

- ⌚ DHHS shall file a court report with the court, including a certificate of service that the report has been submitted to all parties and the CASA volunteer, if appointed, 7 business days prior to the scheduled review hearing. **A.C.A. '9-27-361(b)(1)**

Best Practice: The permanency planning court report contents are prescribed by statute. The AAL should assure that the reports received meet all requirements of A.C.A. §9-27-361(b)(2) for caseworkers and A.C.A. §9-27-361(b)(3) for CASA volunteers.

- ⌚ CASA volunteers shall provide written reports for the court and shall provide all parties or the attorney of record with a copy of the report 7 business days prior to the hearing. **A.C.A. '9-27-316(g)(3)(A)(iii); §9-27-361(b)(1)**
- ⌚ A written order shall be filed and distributed to the parties by the court, or by a party or party's attorney as designated by the court, within 30 days of the date of the hearing or prior to the next hearing, whichever is sooner. **A.C.A. '9-27-338(e).**
- ⌚ Upon the court's determination that the goal is termination of the parental rights, DHHS shall file a TPR petition within 30 days of the order. **A.C.A. '9-27-338(f).**

- ⌚ Nothing shall prevent the state from filing a petition for termination, guardianship or permanent custody prior to any hearing. **A.C.A. '9-27-338(b)(1)**
- ⌚ If DHHS failed to provide services, court shall continue the PPH no longer than 6 months. **A.C.A. '9-27-338(c)(2)(C)(i)**

Best Practice: AAL should assure that a staffing is held with all parties present prior to the hearing and an updated case plan developed, if needed, to be entered into the record.

Present at Hearing:

- Judge;
- Parties, including children unless excused for good cause by court;
- Attorneys for parties;
- CASA volunteer, if appointed;
- Case worker and relevant witnesses;
- Foster parents or relative caregivers; and
- Court Reporter.

Best Practice: This is not a review hearing. At the end of this hearing the court should enter one of the following plans based on the child's best interest and the evidence presented by the parties. The focus of this hearing should be on the child and which permanent plan is in the child's best interest. Note: the fact that a child over the age of 10 has stated an intent to refuse to sign a consent to be adopted is not reason to forgo TPR.

Pre-trial Preparations:

- Ensure that the foster parent or temporary custodian has been provided with notice of the hearing by DHHS.
- Attend and participate in staffing and discuss case goal and concurrent goal.
- Interview client, caseworker, and all witnesses.
- Review all evidence to be submitted during the hearing.
- Share with opposing counsel all evidence to be submitted by AAL during the hearing.

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Best Practice: The AAL should investigate prior to the hearing:

- ✓ What are the child's needs, wishes, and best interest?
- ✓ Why is the chosen plan a better plan than the alternatives?
- ✓ What support and independent living services are being provided to the juvenile to ensure that the juvenile will be able to transition out of foster care and be able to care for him/herself?
- ✓ What is the housing plan?
- ✓ What is the educational plan for the child?
- ✓ What is the plan for supervision and structure for the child? Does the agency have a mentor for the juvenile?
- ✓ What additional specific services will the juvenile need?

Exhibits:

- PPH Court Report;
- Case plan (if amended);
- CASA court report; and
- Reports from service providers.

Permanency Plans & Analysis of Proposed Plans:

The court shall enter one of the following permanency goals, listed in the order of preference:

1. Return Home if child's health and safety can be adequately protected; **'9-27-338(c)(1)**

Best Practice: The AAL should investigate prior to the hearing:

- ✓ What are the child's needs, wishes and best interest?
- ✓ Review facts of case and parent's and agency's compliance with case plan and court orders
- ✓ Did the services alleviate the reasons for removal? What is different now?
- ✓ How has visitation gone and has there been a plan to transition home through extended visitation, overnights, weekends, to trial

placement while the court continues to monitor the child's health and safety?

- ✓ What needs to happen to allow the child to return home safely?
- ✓ What has the agency done to reduce the risk or likelihood of disruption after the child is returned home? What safeguards are in place to protect the child?

2. Terminate Parental Rights unless:

- Relative placement and TPR is not in child's best interest, or
- Compelling reason, or
- DHHS failed to provide services. **A.C.A. '9-27-338(c)(2)**

Best Practice: The AAL should investigate prior to the hearing:

- ✓ What are the child's needs, wishes and best interest?
- ✓ Is there an exception to not terminate?
- ✓ Is TPR in the child's best interest?
- ✓ What specifically are the plans for the child to be adopted?
- ✓ If TPR, are there putative parents with rights?
- ✓ Can TPR be achieved without trial – voluntary relinquishment or mediation to avoid harm to child?

3. Guardianship A.C.A. '9-27-338(c)(3)

Best Practice: The AAL should investigate prior to the hearing:

- ✓ What are the child's needs, wishes and best interest?
- ✓ Are there convincing reasons that the child cannot return home or be adopted?
- ✓ Is this the best guardian for the child and does he/she have a commitment to remaining in the child's life?
- ✓ Have home study and all background checks been completed?
- ✓ Will the guardian need financial assistance to care for the child?
- ✓ Does the guardian understand his/her rights and responsibilities?
- ✓ Will there be ongoing contact with the child's parents, siblings and relatives?

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- ✓ Will the guardian abide by the court's orders regarding contact with parents and relatives?
- ✓ Will the agency still provide services or provide some ongoing monitoring?

4. Permanent Custodian A.C.A. '9-27-338(c)(4)

Best Practice: The AAL should investigate prior to the hearing:

- ✓ What are the child's needs, wishes, and best interest?
- ✓ Why is this a better plan than return home, adoption or guardianship?
- ✓ Does the child have a bond with the custodial family?
- ✓ Have home study and all background checks been completed?
- ✓ Will the custodian need financial assistance or services to care for the child?
- ✓ Does the custodian understand his/her rights and responsibilities?
- ✓ Will there be ongoing contact with the child's parents, siblings, relatives?
- ✓ Will the custodian abide by the court's orders regarding contact with parents and relatives?
- ✓ Will this custodian make a long-term commitment to the child?

5. Continue Reunification only if parent is

complying with case plan and court orders, is making significant measurable progress toward reunification, and reunification can occur within time frame consistent with child's developmental needs A.C.A. '9-27-338(c)(5)

Best Practice: The AAL should investigate prior to the hearing:

- ✓ What are the child's needs, wishes and best interest?
- ✓ Review facts of case and parents' and agency's compliance with case plan and court orders
- ✓ Are the services alleviating the reasons for removal and the parent needs more time to be able to maintain a safe and stable home for the child?
- ✓ What is different now compared to where the parents were at the last hearing?

- ✓ How has visitation gone and has their been a plan to transition home, extended visitation, overnights, weekends, to trial placement while the court continues to monitor the child's health and safety?
- ✓ What exact steps must be completed in order for the child to return home safely?

6. Plan for Another Planned Permanent Living Arrangement (APPLA) only if:

- child cannot be reunited with family;
- another permanent plan is not available; and
- a compelling reason exists that TPR is not in the child's best interest A.C.A. '9-27-338(c)(6)(B)
- APPLA shall address the quality of services, including independent living services, if age appropriate, and a plan for supervision and nurturing for the juvenile. A.C.A. '9-27-338(c)(6)(A)

Post-Trial Activities:

- Review court order for accuracy and completeness.
- AAL must monitor compliance with court orders.
- AAL must explain to age-appropriate clients the hearing outcome and its meaning.

IV-E COURT FINDING REQUIRED

The court shall make a finding on whether DHHS has made reasonable efforts and shall describe the efforts to finalize the permanency plan for the juvenile. Ark. Code Ann. § 9-27-338(d)

Note: If reasonable efforts to finalize the permanency plan are not made within the 12 months of the date the child comes into care, the child becomes ineligible for IV-E funding from the end of the 12th month following the date the child is considered to have entered foster care or the end of the month of the most recent judicial determination to finalize permanency was made and remains ineligible until such a determination is made.