

CASA VOLUNTEER GENERAL HEARING PREPARATION CHECKLIST

Prior to any hearing, the CASA volunteer should gather information on case progress and the child's needs by visiting:

- *The child regularly, based on needs and age of child;*
- *The foster parents;*
- *Parents and other relatives;*
- *The teacher or day care provider and others who have contact with the child, such as the school bus driver, playground supervisor, etc.;*
- *Any other relevant individuals with knowledge of the child (counselors or rehabilitation providers); and*
- *The caseworker, the attorney ad litem, and the parent's attorney.*
- *If the father is unknown or location is unknown, look for that father "like you need his kidney."*

When observing the visitation with the parents, the CASA volunteer should:

- *Let the parent engage with the child.*
- *Do not participate – try to be a "fly on the wall." If it is possible to observe without being in the room, do so.*
- *Observe how the child relates to the parent(s) and how the parent(s) interact with the child.*
- *Observe how the parent(s) discipline the child.*
- *Notice what the parents bring for or give to the child.*

In every court report, the CASA volunteer should report on:

- *Child's medical, physical, emotional, and educational needs.*
- *Compliance with court orders and the case plan.*
- *Appropriateness of child's placement, how child is disciplined.*
- *What the parents need to be able to provide a safe home for their child (or if it is in the child's best interest to return home).*
- *Concurrent plan, and what progress is being made on that plan.*
- *Child's wishes.*

CASA PROBABLE CAUSE HEARING CHECKLIST

Purpose:

This hearing shall be limited to determining whether probable cause existed to protect the juvenile and to determining if probable cause to protect the juvenile continues to exist; however, issues of custody and services may be considered by the court.

Note: The Probable Cause hearing is sometimes called the emergency hearing.

Time constraints:

- ⌚ The Probable Cause Hearing shall be held within 5 business days of the issuance of the ex parte order.
- ⌚ By agreement of the parties and with the court's approval, the Adjudication Hearing can be held anytime after the Probable Cause hearing. However, the Adjudication Hearing shall be held within 30 days of the Probable Cause Hearing and may be continued for no more than 30 days upon motion of the court or parties for good cause shown.
- ⌚ A written order shall be filed by the court or by a party or party's attorney as designated by the court within 30 days of the date of the emergency hearing, or prior to the next hearing, whichever is sooner.

Present At Hearing:

- Judge;
- All parties, including children, unless excused for good cause by court;
- Attorneys for all parties;
- Foster parents and relative caregivers;
- Assigned investigator and/or caseworker; and
- Court Reporter.

Best Practice: CASA staff member or experienced volunteer also attend to gather information.

Burden of Proof:

Petitioner has proof of preponderance of the evidence that probable cause exists for continuation of emergency order.

Information to gather at the hearing:

- Identity of all parties (and attorneys), including putative fathers;
- Legal relationships of the parties to the children;
- Other family members or family resources;
- Whether the child is of Native American heritage;
- Special needs of the children or parents;
- Current custody and visitation; and
- Date and time of staffing. (*Law requires initial case plan within 30 days of removal.*)

Best Practice:

- *Use a worksheet that makes entry into COMET easy.*
- *Ask permission of parents' attorney to talk with family members and get contact information.*
- *Get placement information about the child.*
- *Learn who the child's caseworker is.*

Court Findings:

- That probable cause existed;
- That probable cause continues to exist and the juvenile cannot be returned home; OR
- The court shall return the juvenile home if it finds it is in the juvenile's best interest and the juvenile can be returned home safely pending adjudication.
- Court shall set date and time for adjudication hearing.

Best Practice: If a volunteer is available, have one appointed at this time. The volunteer is not to ask questions relating to any pending charges, but is to focus on the child's immediate needs. Prior to the adjudication/disposition hearing, the volunteer should look at transition issues, such as clothing and other belongings, education, medical or counseling needs, siblings, potential relative placements, and visitation.

CASA ADJUDICATION/DISPOSITION HEARING CHECKLIST

Petitioners:

- ✓ Any adult and any juvenile in the home age 10 years or older can file a dependency-neglect (d-n) petition, although
- ✓ Only law enforcement, prosecuting attorney or DHHS or its designee can file d-n petition seeking ex parte relief.

Adjudication & Disposition Purpose:

- To determine whether allegations in the petition are substantiated by the evidence.
- To enter orders consistent with disposition alternatives.
- In considering the disposition alternatives the court shall give preference to the least restrictive disposition consistent with the best interest and welfare of the juvenile.

Time Constraints:

- ⌚ The CASA court report shall be file marked and distributed to parties at least seven business days prior to the hearing. CASA staff shall complete a Certificate of Service.
- ⌚ A written adjudication order shall be filed by the court within 30 days of the date of the adjudication hearing or prior to the next hearing, whichever is sooner.
- ⌚ Any predisposition reports shall be provided in writing to all parties and counsel at least 2 days prior to the disposition hearing.
- ⌚ The Disposition Hearing may be held immediately following or concurrent with the Adjudication Hearing, but shall be held no more than 14 days following the Adjudication Hearing.
- ⌚ A written disposition order shall be filed 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.
- ⌚ Within 60 days from removal the court must make reasonable efforts findings to prevent removal.

Present at Hearing:

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

Burden of Proof:

Preponderance of the evidence.

Issues:

- Have all the parties been properly identified and served with petition?
- Do all parties entitled to appointment of counsel have counsel or is proper waiver on the record?
- Did all parties receive a copy of the case plan, UAMS comprehensive, and any exhibits that will be admitted at the hearing?

Best Practice: Preparation for court

- *Know how the child is adjusting to foster care.*
- *Know how the child is doing in school and whether the parent/guardian should be involved in educational activities and decisions.*
- *If the child appears to have any special needs (speech, behavior, learning), obtain the last special education evaluation and IEP.*
- *Learn if the child has medical or counseling needs (start with UAMS comprehensive).*
- *Attend the staffing and participate in the case plan development.*
- *Share information with the AAL, FSW, and parent counsel, as appropriate.*
- *Identify potential relatives and whether ICPC will be required.*
- *Take photos if helpful.*
- *Begin to look at concurrent planning options.*
- *Ask whether ICWA might apply.*
- *Learn the child's wishes.*
- *Write a court report based upon the facts gathered.*

CASA ADJUDICATION/DISPOSITION HEARING CHECKLIST

Adjudication

- Have the allegations in petition been substantiated by the proof?
- Is the child d-n as defined by the statute?

Best Practice: The CASA volunteer's facts and recommendations are not for the purpose of proving or disproving the case, though the CASA volunteer may be called as a witness in this portion of the hearing.

Disposition

Best Practice: The CASA volunteer should submit a court report and be prepared to testify for this portion of the hearing. If an attorney invokes the rule, ask if the CASA volunteer can testify first and then stay in the courtroom to take notes. If this is not possible, a staff person or another volunteer not assigned to the case should take notes.

When testifying, the volunteer should take notes to the stand and ensure that testimony is factual. Recommendations must be supported by the facts.

Disposition Alternatives & Limitations

1. Order family services.

- ✓ Court shall not specify a particular provider for family services when DHHS is the payor or provider.
- ✓ Court shall determine parent's, guardian's, or custodian's ability to pay in part or whole for services and shall include findings in written order.

2. **Transfer custody** to DHHS, licensed agency responsible for care of juveniles, relative or other individual if in child's best interest.
 - ✓ Custody can be transferred to a relative or other individual **only after a home study** by DHHS or licensed social worker of the placement is conducted and submitted to court in writing and the court determines that the placement is in the child's best interest.
 - ✓ Prior to placing a child in DHHS custody, the court must find that reasonable efforts were made to prevent need for removal. Reasonable efforts are deemed if there was an emergency.
 - ✓ If the court finds that reasonable efforts could have been made with the juvenile remaining safely at home, but that DHHS failed to do so, the court may dismiss the petition, order services, or transfer custody to protect child's health and safety or prevent removal from the court's jurisdiction.

3. **If court transfers custody to DHHS, the court shall issue orders regarding educational issues of the juvenile including:**

- ✍ If the parent or guardian (P/G) shall have access to school records;
- ✍ If P/G entitled to school records, whether they are entitled to placement information – name and address of foster parent; and
- ✍ If P/G may participate in any school conferences or similar school activities.
- ✍ The court may also appoint an individual to consent to the IEP as a surrogate parent, including the foster parent.

4. **Grant Permanent Custody.**

5. **Order parent/guardian/custodian to attend parental responsibility training.**

CASA PERMANENCY PLANNING HEARING CHECKLIST

Purpose:

Court shall finalize a permanency plan for the juvenile based on the juvenile's best interest.

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.
- ⌚ DHS 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.
- ⌚ 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 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.
- ⌚ Upon the court's determination that the goal is termination of parental rights, DHS shall file a TPR petition within 30 days of the order.
- ⌚ Nothing shall prevent the state from filing a petition for termination, guardianship or permanent custody prior to any hearing.
- ⌚ If DHS failed to provide services, court shall continue the PP hearing no longer than 6 months.

Present at Hearing:

- Judge;
- Parties, including children, unless excused for good cause by court;
- Attorneys for the 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. The focus of this hearing (and the CASA court report) should be on the child and which permanent plan is in the child's best interest.

In preparation for this hearing, the CASA volunteer should:

- ✓ *Prepare a timeline to include with the court report. In 1-2 pages, include a history of the case with all important events, including hearings, placement changes, and key orders.*
- ✓ *Review prior recommendations and reports.*
- ✓ *Review the original basis for the adjudication.*
- ✓ *Base recommendations on the child's needs as well as on a review of compliance with case plan and court orders and health and safety issues throughout the life of the case.*

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;

Best Practice: Questions to address in the court report if the volunteer is recommending this option:

- ✓ What are the child's needs, wishes, and best interests?
- ✓ To what extent have the parents and agency complied with the case plan and court orders?
- ✓ Did the services alleviate the reasons for removal? What is different now than when the child was removed?
- ✓ How has visitation gone? Has there been a plan to transition home (extended visitation, overnights, weekends, 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?

CASA PERMANENCY PLANNING HEARING CHECKLIST

2. TPR unless:

- The child is placed with a relative and TPR is not in the child's best interest;
- A compelling reason not to TPR exists; or
- DHHS failed to provide services.

Best Practice: Questions to address in the court report if the volunteer is recommending this option:

- ✓ What are the child's needs, wishes and best interests?
- ✓ 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 rights are terminated?
- ✓ If TPR, are there putative parents with rights?
- ✓ Can TPR be achieved without trial? Is voluntary relinquishment or mediation possible to reduce potential harm to child?

3. Guardianship

Best Practice: Questions to address in the court report if the volunteer is recommending this option:

- ✓ What are the child's needs, wishes and best interests?
- ✓ 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?
- ✓ 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

Best Practice: Questions to address in the court report if the volunteer is recommending this option:

- ✓ What are the child's needs, wishes, and best interests?
- ✓ 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, and other 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 and making significant measurable progress toward reunification, and reunification can occur within time frame consistent with the child's developmental needs.

Best Practice: Questions to address in the court report if the volunteer is recommending this option:

- ✓ What are the child's needs, wishes, and best interests?
- ✓ To what extent have the parents and agency complied with the case plan and court orders?
- ✓ Are the services alleviating the reasons for removal? Will more time allow the parent 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 and at the beginning of the case?

CASA PERMANENCY PLANNING HEARING CHECKLIST

- ✓ How has visitation gone? Has there been a plan to transition home (extended visitation, overnights, weekends, 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:

- The child cannot be reunited with family;
- another permanent plan is not available; and
- a compelling reason not to TPR exists, or a child is being cared for by relative.
- APPLA shall address the quality of services, including independent living services, if age appropriate, and a plan for supervision and nurturing for the juvenile.

Best Practice: Questions to address in the court report if the volunteer is recommending this option:

- ✓ What are the child's needs, wishes, and best interests?
- ✓ Why is this a better plan than return home, adoption, guardianship, custody, or continued reunification?
- ✓ 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? Has a mentor been identified for the child? Is there a stable, healthy adult in this child's life?
- ✓ What additional specific services will the juvenile need?
- ✓ How will this juvenile receive the medical care he/she needs after turning 18?
- ✓ Does the child understand what services he/she can receive after age 18?

CASA POST TPR HEARING CHECKLIST

Purpose:

- Court shall determine if the case plan, services and placement meet the special needs and best interest of the child.
- Court shall determine if DHHS has made reasonable efforts to finalize an appropriate permanent placement for the juvenile.
- Court shall determine if the case plan is moving toward an appropriate permanency plan for the juvenile.

Time constraints:

- ⌚ Shall be held at least every 6 months following an order for TPR until permanency is achieved.
- ⌚ 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.
- ⌚ 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. CASA staff should prepare a certificate of service.
- ⌚ A written order shall be filed and distributed to the parties within 30 days of the date of the hearing or prior to the next hearing, whichever is sooner.

Present At Hearing:

- ✓ Judge;
- ✓ Remaining parties and their attorneys;
- ✓ Children, unless excused for good cause by court;
- ✓ CASA volunteer, if appointed;
- ✓ Case worker, adoption specialist, and relevant witnesses;
- ✓ Foster parents or relative caregivers; and
- ✓ Court Reporter.

Issues:

- Parties' compliance with case plan and court orders;
- Appropriateness of case plan goal; and
- Whether the child's needs are being met.

Court Findings:

In review orders, the court shall determine and include the following:

- Whether the case plan, services, and current placement meet the special needs and best interest of the juvenile, with the juvenile's health, safety, and education specifically addressed;
- Whether DHHS has made reasonable efforts to finalize a permanency plan for the child; and
- Whether the case plan is moving toward an appropriate permanency plan.
- The court shall consider extent of parties' compliance with case plan and court orders to finalize the permanency plan.

Best Practice: In preparation for this hearing, the CASA volunteer should:

- *Monitor and report on progress towards permanent placement.*
- *Monitor and report on health and safety issues.*
- *Make a recommendation on the continued appropriateness of the goal and concurrent plan. After TPR there still needs to be both a plan and a concurrent plan.*

Prior to this hearing, the CASA volunteer should visit:

- *The child regularly, based on needs and age of child;*
- *The foster or adoptive parents;*
- *The teacher or day care provider and others who have contact with the child, such as the school bus driver, playground supervisor, etc.;*
- *Any other relevant individuals such as counselors;*
- *The caseworker, the adoption specialist, and the attorney ad litem; and*
- *The independent living coordinator, if the child is over 14.*

CASA FIFTEENTH-MONTH REVIEW HEARING CHECKLIST

A.C.A. §9-27-359

Purpose:

To determine if DHHS shall file a petition to TPR if the juvenile has been out of the home for 15 continuous months (excluding trial placements or run-away status).

This hearing is only required if the goal at the PPH was either reunification or APPLA.

Time constraints:

- ⌚ This hearing is required when the juvenile has been out of the home for 15 continuous months (excluding trial placements or run-away status).
- ⌚ 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.
- ⌚ If the court approves a permanency goal to terminate, DHHS shall file TPR petition no later than the 15th month of the child's entry into foster care.
- ⌚ If the court determines that the child should remain in an out-of-home placement, the court shall review the case every 6 months with an annual permanency planning hearing until permanency is achieved.

Present at Hearing:

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

Court shall authorize DHHS to file a TPR petition unless:

- The child is placed with a relative and TPR is not in child's best interest;
- DHHS has documented in the case plan a compelling reason why termination is not in child's best interest and the court approves the compelling reason; or
- DHHS failed to provide services.

Best Practice: In the CASA court report, the volunteer should address:

- *Is TPR in the child's best interest?*
- *Is there an exception to not terminate?*
- *If allowed to file petition, does DHHS have grounds for TPR (see TPR hearing best practice card for grounds)?*
- *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? Will voluntary relinquishment or mediation reduce potential harm to the child?*

Best Practice: Prior to this hearing, the CASA volunteer should investigate:

- *Compliance with court orders and the case plan;*
- *Appropriateness of child's placement, including how child is disciplined; and*
- *Child's medical, physical, emotional, and educational needs.*

Prior to this hearing, the CASA volunteer should visit:

- *The child regularly, based on needs and age of child;*
- *The foster parents;*
- *The teacher or day care provider and others who have contact with the child, such as the school bus driver, playground supervisor, etc;*
- *Parents and other relatives;*
- *Any other relevant individuals such as counselors, rehabilitation providers; and*
- *The caseworker, the attorney ad litem, and the parent's attorney.*