

JUDICIAL CHECKLIST – PERMANENCY HEARING

A Permanency Hearing is a critical event where the court must assess the appropriateness of a child's permanency goal and progress towards that goal. This checklist is designed to highlight key questions that the court should ask at every Permanency Hearing to elicit more detailed information.

AT EVERY PERMANENCY HEARING:

1. Address appearances, written information and youth consultation:

- Are all parties and participants present, including the child? If not, did they receive proper notice?
- Is the hearing timely?
- Have you consulted with the child? What is the child's opinion about the proposed plan?
- If the child is not present, why is the child not there? When did the guardian ad litem (GAL) or adversary counsel consult with the child? What is the child's opinion about the proposed plan?
- Were any written statements submitted? If so, have they been distributed to all parties?
- Has everyone received a copy of the Permanency Plan and any additional reports?

2. Review the child's out-of-home placement status:

- How long has the child resided outside the home?
- What prevents a safe return home with either parent today?
- What are the reasons for continued placement of the child?
- Has the child resided outside the home for 15 out of the past 22 months?
- If yes, is there an exception to a termination of parental rights filing?
- Have the parents been given termination of parental rights warnings?

3. Examine the child's current placement:

- Does the current placement remain necessary, safe, and appropriate?
- Does the current placement meet all the physical, emotional, and educational needs of the child?
- How does the child feel about his or her current placement?
- Is the child placed with a relative? If not, why?
- Has the parent provided names of relatives? Has the agency searched for relatives and examined them as potential placements or adoptive resources?
- If the child has siblings, are the child and siblings placed together? If not, why?
- If the siblings are not placed together, are they spending time together? Is the family interaction plan appropriate and sufficient? How often and in what setting? How is the sibling interaction going?
- If this case is subject to the Indian Child Welfare Act, is the child placed in accordance with the placement preferences under Wis. Stat. § 48.028(7)?

4. Evaluate progress made to address safety and the efforts made to rehabilitate the family:

- What progress has been made toward eliminating the causes for the out-of-home placement?
- What is the status of threats of danger in the home? Are they decreasing? Any additional threats?
- What is the status of parent protective capacities?
- What progress has each parent made in meeting the conditions of return?
- Are the parent and child spending time together? How often and in what setting? Is the level of supervision appropriate and sufficient? How is the family interaction going?
- What services has the agency offered or provided? Are services available? Are there additional services that should be offered to the parents or child?
- Have adequate efforts been made to involve appropriate service providers?
- Have the agency, service providers, child and parents complied with the permanency plan?
- If this case is subject to the Indian Child Welfare Act, has the agency engaged in active efforts under Wis. Stat. § 48.028(4)(g) to prevent the breakup of the family?

5. Discuss the child’s permanency goal and any concurrent permanency goal:

- What is the proposed permanency goal and concurrent permanency goal (if any)?
- Have reasonable efforts been made to achieve the permanency goal, including through an out-of-state placement if appropriate?
- Why is this goal in the child’s best interests? Is this goal appropriate?
- What is the date by which the permanency goal or concurrent permanency goal will be achieved?
- Is concurrent planning appropriate for this child? Why or why not?

FOR EACH PERMANENCY GOAL, EXPLORE THE FOLLOWING:

Return Home:

- What is the status of the original threats of danger and any new threats?
- What are the specific facts about changes in parent behavior, attitudes, motivation, and interactions?
- What is needed for an in-home safety plan to be sufficient?
- What supervision or case management will be provided after return home?
- Is trial reunification appropriate?

Placement for Adoption:

- What are the facts and circumstances supporting the grounds for termination?
- Is the agency making reasonable efforts to locate an adoptive resource (foster parents and relatives)?
- Has a TPR petition been filed and, if not, what is the date it will be filed?
- What is the likelihood of adoption?

Placement with a Guardian:

- What are the facts and circumstances supporting guardianship?
- What demonstrates that the proposed guardian is appropriate and willing to serve as a permanent family to the child?
- Can the guardian manage the relationship between the child and birth family?
- How will this goal provide stability and permanency?
- Has subsidized guardianship been considered?
- Has the guardianship petition been filed and, if not, what is the date it will be filed?

Permanent Placement with a Fit and Willing Relative:

- What are the facts and circumstances supporting this permanent placement?
- What demonstrates that the proposed caregiver is appropriate and willing to serve as a permanent family to the child?
- How will this goal provide stability and permanency?
- Has guardianship or subsidized guardianship been considered?

Other Planned Permanent Living Arrangement (OPPLA):

- Have compelling reasons been documented as to why it would not be in the child’s best interests to have one of the other permanency goals?
- Is there a concurrent permanency goal?
- Does the goal include an appropriate, enduring relationship with an adult?

Questions adapted from: “Key Principles for Permanency Planning for Children,” Adopted by the NCJFCJ (2011); “Making It Permanent: Reasonable Efforts to Finalize Permanency Plans for Foster Children,” ABA Center on Children and the Law (2002); “Adoption and Permanency Guidelines: Improving Court Practice in Child Abuse and Neglect Cases,” NCJFCJ (2000); “Resource Guidelines: Improving Court Practice in Child Abuse & Neglect Cases,” NCJFCJ (1995); “Child Safety: A Guide for Judges and Attorneys,” American Bar Association (2009).