

PLEA HEARING CHECKLIST – CHIPS

- Review petition for reliable and credible information.
- Determine if hearing is within 30 days after petition filed (10 days for a child held in secure custody).
- Determine whether all necessary parties have been given proper notice and:
 1. Notice to tribe(s), if WICWA?
 2. Any alleged fathers?
 3. Is anyone incarcerated?
 4. Diligent search for and notice to relatives completed?
 5. Any language or cognitive challenges?
- Advise the parties:
 1. Allegations in the petition; possible consequences; right to contest the proceedings.
 2. Right to remain silent and a negative inference can be made from the silence.
 3. Right to jury trial and substitution of judge (both requests must be made prior to the end of the hearing or waived, except non-petitioning parties shall be granted continuance if want to consult an attorney about jury trial or substitution).
 4. Right to confront and cross examine witnesses.
 5. Right to present and subpoena witnesses.
 6. Right to counsel, if not already appointed.
 - Refer to State Public Defender if WICWA case or consider appointing counsel (see *Joni B.* factors).
 7. Right to have the allegations proved by clear and convincing evidence.

- Explain to alleged fathers limitations on participation but opportunity to be adjudicated.

- If child placed out of the home:
 1. If not done previously, ask the parties to provide the names of three relatives or adults they want considered for placement.
 2. Have reasonable efforts been made to place the child in a placement that enables the sibling group to remain together? OR if a joint placement is contrary to the safety or well-being of the child or any of the siblings, has the agency made reasonable efforts to provide frequent visitation?
 3. Is family interaction occurring and/or is there a need for the court to address current arrangements?
 4. What are the safety issues preventing the child from returning home?
 5. Any caregivers present who wish to be heard?

- ASK PARTIES FOR THEIR PLEA: IF ONE OR MORE OF THE PARTIES WISHES TO ADMIT TO THE FACTS IN THE PETITION OR PLEADS NO CONTEST
 1. Obtain parties stipulation to jurisdiction.
SEE “STIPULATED PLEA CHECKLIST.”
 2. Set dispositional hearing within 30 days (10 days for a child held in secure custody) OR, if all parties consent and court report prepared, proceed to disposition.

- ASK PARTIES FOR THEIR PLEA: IF PETITION IS CONTESTED
 1. Set a fact-finding hearing no more than 30 days after the plea hearing for a child not held in secure custody (20 days for a child held in secure custody).

- Extending time limits – there are statutory provisions for delays, continuances and extension of time limits. The prescribed time periods can be extended based on:

1. Other pending legal actions or evaluations (psychological, mental, health, physical) related to or ordered pursuant to the case.
2. The request or consent of the child with his or her counsel.
3. Delay caused by disqualification of judge.
4. Delay resulting from the absence or unavailability of the child or expectant mother.
5. Delay resulting from a settlement conference.

****MUST STATE ON RECORD WHY TIME LIMITS ARE EXTENDED.**