

	INDIANA DEPARTMENT OF CHILD SERVICES CHILD WELFARE MANUAL	
	Chapter 6: Court	Effective Date: August 1, 2011
	Section 11: Permanency Hearing	Version: 3

POLICY

The Indiana Department of Child Services (DCS) will attend and participate in a Permanency Hearing for a child:

1. Not more than 30 days after the court finds that reasonable efforts to reunify or preserve a child's family are not required;
2. Every 12 months after the date of the original Dispositional Decree or the date the Child in Need of Services (CHINS) was removed from the child's parent/guardian/custodian, whichever comes first; and
3. More often if ordered by the juvenile court.

DCS may request that the court hold a Permanency Hearing at any time.

[REVISED] DCS will request a Permanency Hearing six (6) months after removal under a Dispositional Decree for Concurrent Planning cases if the parent, guardian, or custodian has not made significant progress towards meeting the Primary Plan. See separate policy, [5.15 Concurrent Planning](#).

DCS will present the child's views in the [Progress Report](#) prepared for the Permanency Hearing. See Related Information for further details.

Code References

1. [IC 31-34-21-7: Permanency hearing](#)
2. [IC 31-34-22: Progress report required before formal hearing](#)
3. [IC 31-34-21-4: Notice and opportunity to be heard](#)
4. [IC 31-32-1-4: Notice requirements and procedures](#)

PROCEDURE

[REVISED] The Family Case Manager (FCM) will:

1. Follow all procedures outlined in a separate policy, [6.4 Providing Notice](#); and
2. Provide the following to the court, every three months from the Dispositional Decree:
 - a. A written [Progress Report](#) with any relevant information attached. See separate policy, [6.8 Three Month Progress Report](#); and
 - b. The child's current [Case Plan](#) if not previously filed. See separate policy, [5.8 Developing a Case Plan](#), and
 - c. Information about progress made on the Concurrent Plan, if applicable. See separate policy, [5.15 Concurrent Planning](#).

3. Enter court hearing data in Indiana Child Welfare Information System including the courts findings related to Reasonable Efforts toward the Permanency Plan.

The FCM and Supervisor will ensure the child attends the hearing, unless the court has ordered otherwise.

The Supervisor will review and approve the [Case Plan](#) and the [Progress Report](#) prepared for the Permanency Hearing.

PRACTICE GUIDANCE

N/A

FORMS AND TOOLS

1. [Progress Report](#)- available in the Indiana Child Welfare Information System
2. [Case Plan](#)- available in the Indiana Child Welfare Information System

RELATED INFORMATION

The Court's Purpose for the Permanency Hearing

1. The same factors considered during the Periodic Case Reviews are also considered during the Permanency Hearing, plus:
 - a. Identify objectives of the Dispositional Decree that have not been met,
 - b. Whether continuation of the decree with or without modification has a reasonable chance of success,
 - c. Whether it is in the child's best interest for the juvenile court to retain jurisdiction,
 - d. Whether responsibility for Placement and Care of the child should remain with DCS,
 - e. Examine procedural safeguards used by DCS to protect parental rights,
 - f. Consider and approve a Permanency Plan for the child or determine whether an existing Permanency Plan will be modified, taking into account the recommendations of parties or other persons having a significant relationship with the child. See separate policies [6.10 Permanency Plan](#), and [5.8 Developing a Case Plan](#),
 - g. Consider whether DCS has made Reasonable Efforts to finalize the Permanency Plan that is in effect, and
 - h. Determine the child's future status (e.g., whether the child is to return to the/their parent/guardian/custodian, continue in substitute care, be placed for adoption, be placed under another planned permanent living arrangement, with an appointed legal guardian, or placed with a fit and willing relative).

Child's Voice in the Permanency Plan

The term "consult" does not mean that the Judicial Officer must literally pose questions to a child at a hearing or in chambers - meaning that the physical presence of the child would be required. The point is to get the child's view on the issue of transition and permanency - whether that is reunification, adoption, guardianship, another planned permanent living arrangement, or placement with a fit and willing relative.

The child's views may best be presented in the Permanency Plan to the court by documenting the child's views - indicating that the FCM has talked with the child and put down in writing what

those views are - even if (and perhaps particularly if) they are not consistent with the recommendation for permanency in the report.

Note: The child's views may also be expressed verbally to the Judicial Officer by an attorney for the child, the FCM or the GAL/CASA at the Permanency Hearing. The point is that at each and every Permanency Hearing, there must be an indication that the child's view on the permanent placement has been sought and reported to the Court.

[REVISED] Determination of the court will be based on findings after consideration of the following:

1. The question of continued jurisdiction and whether the Dispositional Decree should be modified;

Note: There is a rebuttable presumption that jurisdiction over the child in a CHINS proceeding continues for not longer than 12 months after the date of the original Dispositional Decree or 12 months after the CHINS was removed from the child's parent/guardian/custodian, whichever occurs first. The state may rebut the presumption and show that jurisdiction should continue by proving that the objectives of the Dispositional Decree have not been accomplished, that a continuation of the decree with or without any modifications is necessary, and that it is in the child's best interests for the court to maintain its jurisdiction over the child. If DCS does not sustain its burden for continued jurisdiction, the court will:

- a. Direct DCS to establish a Permanency Plan within 30 days, or
- b. Discharge the child and the child's parent/guardian/custodian.

2. Recommendations of persons listed below (see number three (3) in this section), before approving a Permanency Plan;
3. Consultation with the child regarding the Permanency Plan; based on age and developmental level the consultation may take place in person, or through an interview with or written statement or report submitted by:
 - a. A Guardian Ad Litem (GAL) or Court Appointed Special Advocate (CASA) for the child,
 - b. A Family Case Manager (FCM), or
 - c. The person with whom the child is living and who has primary responsibility for the care and supervision of the child.

Note: If the child is at least 16 years of age and the proposed Permanency Plan provides for the transition of the child from out-of-home placement to independent living, the court will:

- a. Require DCS to send notice of the Permanency Hearing to the child, and
- b. Provide the child an opportunity to be heard and to make recommendations to the court.

4. Determine whether an existing Permanency Plan must be modified and reasons for the modification;
5. Determine whether DCS has made Reasonable Efforts to finalize the Permanency Plan every 12 months; and
6. Examine procedural safeguards used by DCS to protect parental rights.