

### The Purpose of the Dispositional Hearing

- a. For the court to make determinations about the custody of the child who has been adjudicated
- b. For the court to make a determination of whether or not an appropriate treatment plan can be developed.
- c. For the court to adopt and make order of the court, a treatment plan that “is reasonably calculated to render the parent fit to provide adequate parenting to the child within a reasonable period of time and that relates to the child’s needs.” 19-3-509(1)(e)(I).

### Timing of a Dispositional Hearing

- a. A dispositional hearing may be held on the same day as the adjudication and shall be held on the same day whenever possible. 19-3-508(1), 19-3-505(7)(b).
- b. If the dispositional hearing cannot be held on the same day as the adjudication, it shall be held no later than 30 days after adjudication in an EPP case, and no later than 45 days in a non-EPP case. 19-3-508(1).
  - i. (If one child falls within the EPP guidelines, the timeframes for EPP cases for dispositional hearing shall be utilized). 19-3-104.
- c. A continuance of the dispositional hearing shall only occur upon a finding by the court that a manifest injustice would occur if the continuance is not granted. CJD 96-08(4).
- d. The continuance shall be for no more than 30 days unless the court finds good cause and that such extended continuance is in the best interest of the child. (unsure I like this). Based upon 19-3-104, 19-3-508(1), 19-3-505(7)(b).

### Court report

Prior to the dispositional hearing the department must provide the court and the parties a statement of the details of the services which are necessary to prevent unnecessary out-of-home and to facilitate reunification or otherwise serve the best interest of the minor child.

- a. Provide parents name, address and phone number of service providers.
- b. Establish time frames for the parents to contact providers.
- c. Provide GAL name, address, and phone number for service providers for minor children.
- d. Establish time frames for the GAL/caseworker to contact providers.

### Expectations of the Treatment Plan

- a. A treatment plan for each party and the minor child shall be submitted to the court and the parties no later than 5 days before the dispositional hearing. CJD 96-08(3).
- b. The caseworker assigned to the case as the ongoing worker shall have a face-to-face meeting whenever possible with the respondent to assist in developing the treatment plan. (based upon the fact that D&N courts aim to be non-adversarial (when

possible) and a problem solving court) (don't want that ( ) in any rule, but that's the basis for me).

[RPC, GAL, County Attorney, and the Court shall determine: 7.301.1(G), (H), 7.301.23(c), 7.301.23(A). (the 5 below are found in the GRID fact sheets but do not have a citation).

1. if the treatment plan addresses the issues that required state intervention;
  2. whether the treatment plan is reasonable and capable of success;
  3. whether it is specific to the needs of the individual family members (including the child and any special respondents) and family as a whole;
  4. whether it is culturally appropriate and in the respondent's primary language.
  5. And whether the services called for in the treatment plan are available to the family in the community where the family resides. 19-1-107(2.5), 19-3-508(1)(a).]
- c. At the Dispositional hearing the court shall advise the parties of the potential consequences of not complying with the treatment plan. 19-3-604(1)(c)(I).
  - d. At the Dispositional hearing the parties can opt to agree with all or parts of the treatment plan, and may set a contested treatment plan hearing to address all or parts of the treatment plan. When possible, the contested hearing shall be on the same day as the original Dispositional hearing.
  - e. At the Dispositional hearing, RPC shall request, when appropriate, the protections of C.R.S. 19-3-207 be afforded to the client upon the court ordering the treatment plan.

#### Who is required to have notice of Dispositional hearing

Notice of the dispositional hearing shall be provided to the respondents, parties, counsel, foster parents, pre-adoptive parents, and relatives with whom the child is placed. 19-3-502(7), 19-3-507(5)(c). (casa assigned should also be notified – 19-1-209(3).

ICWA requires additional notice requirements.

#### When no appropriate treatment plan is requested

- a. When the criteria set forth in 19-3-508(1)(e)(I) are established, the court may be examining whether no treatment plan can be developed. The court must find by clear and convincing evidence that no appropriate treatment plan can be developed to address the parent's unfitness. 19-3-508(1)(e)(I), 19-3-604(1)(b).
- b. If no appropriate treatment plan is determined order by the court, the court shall set a permanency planning hearing within 30 days of such finding, or a termination motion must be filed within 30 days. 19-3-508(1)(e)(I), 19-3-702(1).

#### Dispositional Required Findings

- (a) The findings made by the court regarding the custody of the child shall be made by a preponderance of the evidence. 13-25-127(1).

(a) The proposed disposition is termination, so no treatment plan can be developed: if the criteria of 19-3-508(1)(e)(I) are established and no treatment plan is requested. ~~by the Department of Human Services (should this also be and/or GAL).~~ (I actually think even another party could ask for no treatment plan including the other parent... would be weird but I don't think statutorily barred.)

- (i) The court must find that no appropriate treatment plan can be developed to address the respondent's unfitness. 19-3-508(1)(e)(I), 19-3-604(1)(b).
- (ii) This finding must be by clear and convincing evidence. 19-3-508(1)(e)(I), 19-3-604(1)(b).
- (iii) If the court finds no appropriate treatment plan, the termination hearing shall not be held on the date of adjudication. disposition.
- (iv) If the court finds no appropriate treatment plan, the 30-day and 45-day timeframes for the dispositional hearing do not apply. 19-3-508(1).

(b) The court is required to find the treatment plan meets the following five criteria by a preponderance of the evidence standard, at the Dispositional Hearing in order to make it an Order of the Court: 13-25-127(1).

- (i) The treatment plan addresses the issues requiring state intervention;
- (ii) The treatment plan is reasonable ~~reasonable and capable of success~~ appropriate and reasonably likely to be successful in accomplishing its purpose; ( I can't find caselaw/statute that says reasonable and capable of success but there is caselaw that says this.);
- (iii) The treatment plan is specific to the needs of the individual family members and the family as a whole;
- (iv) The treatment plan is culturally appropriate and in the respondent's primary language;
- (v) The services in the treatment plan are available to the family in the community where the family resides. 19-1-107(2.5), 19-3-508(1)(a).

(c) Contested (Evidentiary?) Hearings

- (i) If a party objects to all or part of the treatment plan, a contested hearing may be set to address all or parts of the treatment plan.
- (ii) Whenever possible the contested hearing shall be on the same day as the original Dispositional Hearing.

(d) 19-3-207

- (i) ~~The Court shall afford~~ By operation of law, the respondents are afforded the protections of C.R.S. 19-3-207 upon the adoption of a treatment plan, or an interim treatment plan, or the initial assessment plan as a preliminary treatment plan as they are all considered court treatment orders.

(e) Timing:

- (i) In an EPP case, the dispositional hearing shall be held within 30 days of adjudication. In a non-EPP case, the hearing shall be held within 45 days of adjudication. 19-3-505(7)(b), 19-3-508(1).

- (ii) Any continuance shall not exceed 30 days and must be held within the 30-day and 45-day time frames, unless the court finds that a longer continuance is required by best interest of the child, and the court makes good cause findings.
- (iii) In an EPP case, if a party requests a continuance of the Dispositional Hearing, the Court must find good cause for the continuance and there must be evidence provided that the best interest of the child will be served by such a continuance. 19-3-104.

(f) Custody of the adjudicated child

- (i) the court shall enter findings regarding the temporary legal custody of the child.
- (ii) These findings shall be made by a preponderance of the evidence. 13-25-127(1).
- (iii) The Department of Human Services shall provide reasonable efforts to avoid out-of-home placement. 42 USC 671(15)(a).
- (iv) The court shall order one of four legal custody options:
  1. Legal custody with one or both parents or guardian with or without supervision; 19-3-508(1)(a)
  2. Legal custody with a relative or kin or other suitable person, or legal custody with the department and physical custody or placement with relative or kin or other suitable person; 19-3-508(1)(b)
  3. Legal custody with the department or child placement agency for placement in foster care, group home, or other appropriate facility; 19-3-508(1)(c). (if foster home found that can take siblings, it is presumed they should be placed together)
  4. Placement of a child in a hospital or other suitable facility for the purpose of examination and or treatment by a physician, surgeon, psychiatrist, or psychologist. This placement must be found by the court, by a preponderance of the evidence, that separation from the parent is in the child's best interest. Placement in a mental health facility operated by the Colorado Department of Human Services may not take place until the child has received a mental health prescreening recommending that the child be placed in such facility pursuant to 27-65-105 or 27-65-106 or a hearing is held. 19-3-508(1)(a)-(d), 19-3-508(d), 19-3-508(d)(I).  
(the child shall be placed in the least restrictive placement available to meet their needs? Not sure where to put 19-3-508(b(I)))
- (v) To remove a child from the custodial parent or guardian, the court shall make the following findings:
  1. Separation is in the child's best interest;
  2. Continued placement with parents is contrary to the child's best interest;
  3. Reasonable efforts to prevent out-of-home placement have been made or are not required under 19-1-115(7);

4. Reasonable efforts will be made to reunite the child and family or are not required under 19-1-115(7).
5. Procedural safeguards with respect to parental rights have been applied in connection to any removal of the child from the home, placement change, or determination affecting visitation. 19-3-508(2), 19-1-115(6).

Do we need something to address that if the case is identified as an ICWA case, specific findings must be made that active efforts are being made, child is at immediate risk for harm if returned to home, ICWA preferences are being followed.