

Rule Permanency Hearings

- (a) **Hearing.** The Court must hold a permanency hearing when the child is in out-of-home placement. The permanency hearing must be scheduled at the dispositional hearing or upon motion by the Court or any interested party.
- (b) **Notice.** For any permanency hearing, including modification under subsection (d) and review under subsection (e), notice must be provided to all parties and to any placement provider of the child including foster parents, pre-adoptive parents, and relatives pursuant to C.R.S. 19-3-502(7). Placement providers must provide notice to the child of any upcoming hearings. The permanency hearing notice must be as set forth in Form of the Appendix of Chapter 28.
- (c) **Adopting the Permanency Plan.** When proper notice has been provided pursuant to C.R.S. 19-3-702(2) and (7) and the Court has received recommendations or report from the persons present for the hearing, the Court must adopt a permanency plan, which may include concurrent planning pursuant to C.R.C. 19-3-508(7) for each child or set the matter for a hearing upon the request of any party. If the Court sets a hearing, the hearing must be held within 30 days. The burden of persuasion is on the Petitioner for the adoption of the permanency plan.
- (d) **Modification of a Permanency Plan.** After the Court adopts an initial permanency plan, if there is a change in circumstances, any party may later move to modify the plan. Written objections to a plan's modification are due within 14 days. If any request for modification is contested, the Court may, at its discretion, hold a hearing within 30 days of the filing of the objection. The moving party has the burden of persuasion.
- (e) **Review of a Permanency Plan.** The child's permanency plan must be reviewed at least once per year. However, the Court must review the child's permanency plan every six months when the Court determines that there is a substantial probability that the child will be returned to the physical custody of a child's parent, guardian or legal custodian.
- (f) **Consultation with the Child.** The Court must consult with the child in an age appropriate manner regarding the child's permanency plan.
- (1) Age appropriate consultation may include but not be limited to the following:
 - (I) Speaking directly with the Court in person, by phone, or in writing with a copy being provided to all parties, at the permanency hearing or at another scheduled court date;
 - (II) If direct consultation with the Court is not possible, the guardian ad litem must report either in writing with a copy being provided to all parties or orally at the permanency hearing whether the child was invited to speak directly with the Court, why the child is not doing so, and what the child's wishes are regarding permanency;
 - (III) The Court may find that consultation with the child is not possible due to the child's age or ability.

(2) Nothing in this rule limits the Court's ability upon motion demonstrating good cause to speak with a child separately pursuant to C.R.S. 19-1-106(5) under circumstances determined by the court to be in the best interest of the child and provide fairness to the parties.

(I) If the Court meets separately with a child, a record must be made and the record must be made available to any party upon request.

(II) If the Court relies upon any ex parte statements of a child, the Court must identify what statements it relied on and the weight given to such statements.

(g) Other Planned Permanent Living Arrangement Plan. Before adopting an Other Planned Permanent Living Arrangement (OPPLA) plan, the Court must inquire of the parties and require documentation of compelling reasons for not adopting a plan of reunification, adoption, or custody/guardianship.

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| District Court, _____ County, Colorado Court Address: _____ <hr/> THE PEOPLE OF THE STATE OF COLORADO In the Interest of _____, Child, and Concerning, _____ and, _____ Respondents. <hr/> | <p style="text-align: center;">▲ COURT USE ONLY ▲</p> <hr/> Case Number: Division |
| NOTICE OF PERMANENCY HEARING | |

Notice is given, pursuant to §19-3-702(2), C.R.S., that the Court has set a Permanency Hearing in the above-captioned case on **[date], at [time] in [place]**.

- I. **[SHORT, PLAIN ENGLISH VERSION]** At the permanency hearing, the court will set a permanency plan for the child and a target date for achieving the plan.
 OR
[LONG VERSION MORE CLOSELY TRACKING STATUTE] At the permanency hearing, the court will determine whether the child shall be returned home, set a target date for the child’s return home, and determine whether reasonable efforts have been made to find a safe and permanent placement for the child. If the child is not returned home, the court must determine whether there is a substantial probability that the child will be returned home within six months. If the court determines that the child cannot be returned home and that there is not a substantial probability that the child will be returned home within six months, the court must determine the future status or placement for the child, which can include return to the parent, referral for legal guardianship or custody, placement in a planned permanent living arrangement, or placement for adoption.

- II. The legal rights of the child include the right to appointment of a Guardian ad Litem if child is under 18 years of age, and the right to consult with the court in an age appropriate manner about the child’s permanency plan.

- III. The legal rights of the child’s parents or guardians are as follows:
 1. The right to be present at the permanency planning hearing.
 2. The right to notice of the proposed permanency plan at least three days before the hearing. A short continuance of the hearing may be granted upon good cause shown if it is in the best interests of the child.

3. The right to have a lawyer at all hearings, which may be waived. Respondents found to be indigent may request that a lawyer be appointed to represent them at no expense.
4. The right to have the hearing in front of a district court judge. The right to a hearing in front of a judge will be waived unless (1) a request for the hearing to be held before a judge is made at the time the matter is set for hearing, if counsel for the party is present at the time the matter is set; or (2) a request for the hearing to be held before a judge is made within seven days after receipt of notice of the setting if the matter is set for hearing outside of the presence of counsel for a represented party or if the matter is set on notice.

CERTIFICATE OF SERVICE

I certify that on _____ (date) a true and accurate copy of the **NOTICE OF PERMANENCY HEARING** was filed with the court and served on the Petitioner, Respondent(s), Guardian ad Litem(s), Persons with whom the child is placed, and _____ (other) in the following manner:

Hand Delivery, E-Filed, Email, Faxed to this number _____, Other manner _____ (describe) or by placing it in the United States mail, postage pre-paid, and addressed to the following:

Signature