



9th Judicial District Plan for Handling Dependency and Neglect Cases

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Introduction

The procedures for handling Dependency and Neglect ("D&N") cases in the 9th Judicial District are set forth below (the "District Plan"). The District Plan incorporates the requirements of the Colorado Revised Statutes, the requirements of C.R.S. §19-7-101 - the Bill of Rights for Foster Youth, the Family First Prevention Services Act, Chief Justice Directive 98-02, the recommendations in the Child Abuse and Neglect Cases in the Colorado State Courts report dated June 27, 1996, the recommendations contained in Child Abuse and Neglect in the Colorado Courts 1996-2000 - A Reassessment dated September 2002, the Guided Reference in Dependency and Neglect ("GRID"), and the experiences of this and other jurisdictions in improving practice in D&N cases.

This District Plan will move through D&N case processes, procedures, and best practices for the 9th Judicial District in a chronological fashion, from an initial court appearance through each court hearing thereafter, taking into account variations within the district's counties when necessary. Each D&N case is unique; however, permanency can be expedited using the processes and procedures outlined below. Expediting D&N cases is accomplished through the early development of treatment plans, early provision of services, and meaningful reviews of progress toward treatment and permanency goals on a periodic basis. It is in the best interests of the children or youth involved in these cases to work toward these goals in a concerted and efficient manner. The purpose of this District Plan is to provide an outline of procedures and policies for reference by D&N stakeholder parties in order to work toward the goal of establishing timely permanency for children.

All parties must make concerted efforts to communicate among each other, as communication between all parties in the D&N process is imperative to achieve a positive outcome in these proceedings.

Definitions and Acronyms

1. Child — means a person under the age of eighteen. Jurisdiction of the juvenile court shall continue over any child who is adjudicated as dependent or neglected until the child becomes eighteen and one-half years of age unless earlier terminated by court order. C.R.S. §§ 19-1-103(21) and 19-3-205(1). Under certain circumstances, jurisdiction may continue until a child is twenty-one years or older if required under federal law. This document's reference to "child" means the singular as well as the plural "children" and "youth."
2. Colorado Children's Code — is the title that addresses D&N cases in the Colorado Revised Statutes (C.R.S. §§ 19-1-101-19-7-315).

3. Court Appointed Special Advocate ("CASA") — means a volunteer appointed by the court to assist the court in the advocacy for children. A CASA shall conduct an independent investigation regarding the best interests of the child and make recommendations to the court consistent with the best interests of the child regarding placement, family time, and appropriate services for the child and family. C.R.S. §§ 19-1-103(46) and 19-1-208.
4. Counsel for Youth ("CFY") — means a licensed attorney appointed by the court to provide client-directed legal representation for a child or youth who is twelve years of age or older in a D&N proceeding. C.R.S. § 19-1-103(41.5).
5. Department of Human Service ("Department") — means the Garfield County Department of Human Services, the Pitkin County Department of Adult and Family Services, and the Rio Blanco County Department of Human Services.
6. Diminished Capacity — means a party who lacks sufficient capacity to communicate or make considered decisions adequately in connection with their legal representation. Age or developmental maturity must not be the sole basis for determining diminished capacity. C.R.S. § 19-1-103(55.5).
7. Expedited Placement Procedures or Expedited Permanency Planning ("EPP") — refers to a case that involves a child who is under the age of six years at the time a petition is filed, or a group of siblings of which the youngest child is under the age of six years at the time a petition is filed. EPP cases are subject to expedited timeframes to ensure that a child who is under the age of six years who has been removed from their home is placed in a permanent home as expeditiously as possible. C.R.S. §§ 19-1-102(1.6) and 19-1-123.
8. Non Expedited Permanency Placement Case ("Non-EPP") — refers to a case that does not involve a child under the age of six years. Cases that do not involve a child who is under the age of six years are not subject to the expedited timeframes referred to in the Colorado Children's Code.
9. Family First Prevention Services Act ("FFPSA") — means Public Law 115-123 signed into law on February 9, 2018. FFPSA has several provisions to enhance support services for families to help children remain at home, reduce the unnecessary use of congregate care, and build the capacity of communities to support children and families.
10. Guardian Ad Litem ("GAL") — means a licensed attorney appointed by the court to act in the best interests of a child or party with diminished capacity. A GAL appointed to represent a child shall have the right to participate in all proceedings as a party. C.R.S. §§ 19-1-103(74) and 19-1-111.

11. Indian Child — means an unmarried person who is younger than eighteen years of age and who is either: (1) a member of an Indian tribe; or (2) eligible for membership in an Indian tribe and who is the biological child of a member of an Indian tribe. C.R.S. § 19-1-103(83).
12. Indian Child Welfare Act ("ICWA") — refers to the procedural requirements set forth in the "Indian Child Welfare Act", 25 U.S.C. sec. 1901-1963. The court shall make continuing inquiries to determine whether a child who is the subject of a dependency and neglect proceeding is an Indian Child, and if so, shall determine the identity of the Indian Child's tribe and ensure that proper notification has been given in compliance with the Indian Child Welfare Act. C.R.S. § 19-1-126.
13. Petition in Dependency or Neglect — means "Petition" as filed in compliance with C.R.S. §§ 19-3-501 and -502.
14. Qualified Residential Treatment Program ("QRTP") — means a licensed and accredited program that has a trauma-informed treatment model that is designed to address the needs of children with serious emotional or behavioral disorders or disturbances in accordance with FFPSA, and is able to implement the treatment identified for the child by the assessment of the child required in section C.R.S. § 19-1-115(4)(e)(I).
15. Respondent Parent — means any parent, guardian, or legal custodian alleged to have abused or neglected a child or named by the County Attorney as a respondent in the best interest of the child. C.R.S. § 19-3-502(5). The District Plan's reference to "respondent parent" means the singular as well as the plural "respondent parents."
16. Respondent Parent Counsel — means a licensed attorney who represents a respondent parent. A respondent parent has a right to be represented by counsel at every stage of a dependency and neglect proceeding. A respondent parent may seek court-appointed counsel if the respondent parent is unable to financially secure counsel on their own. C.R.S. § 19-3-202.
17. Special Respondent — means a person who is not a parent, guardian, or legal custodian and who is voluntarily or involuntarily joined in a D&N proceeding for the limited purposes of protective orders or inclusion in a treatment plan. C.R.S. § 19-1-103(129). A Special Respondent may be joined because they reside with, assumed a parenting role towards, participated in whole or in part in the neglect or abuse of, or maintains a significant relationship with the child. A special respondent may be represented by counsel at their own expense. C.R.S. § 19-3-502(6).
18. Youth — means an individual who is less than twenty-one years of age. C.R.S. § 19-1-103(145).

Trauma-Informed Court Practices

I. PURPOSE: “Trauma” is a distressing event that threatens one’s sense of safety and often causes lasting emotional and psychological effects. Experiencing a traumatic event can harm a person’s sense of safety, sense of self, and ability to regulate emotions and navigate relationships. We expect that individuals in our courtroom may have been exposed to trauma, and we will take care not to activate it. Proactively addressing trauma activation can prevent escalations, enhance trust in the legal process, support participant well-being, and improve outcomes.

II. COURTROOM ATMOSPHERE: We will attempt to create a welcoming and supportive courtroom atmosphere by allowing snacks, fidgets and casual dress, limiting distractions such as phones, accommodating children, and closing the courtroom when necessary to make parents more comfortable. We will offer breaks or recesses if someone appears overwhelmed and needs to self-regulate. We will refrain from chastising participants for being late or how they are dressed. Support animals are permitted.

III. ENCOURAGEMENT: At each hearing, we will lead with a participant’s strengths and close with positive comments. We will recognize a participant’s adversity and acknowledge supporters in the courtroom. We will emphasize success and motivate participants to believe they can succeed.

IV. LANGUAGE: We will be mindful of the language we use and its impact on the families we serve. We will make our best efforts to communicate with empathy and understanding and ask simple open-ended questions to ease tension. We will engage in cooperative dialogue, avoiding shame or blame. We will show respect through body language and attentive gestures. We will avoid legal jargon and use non-stigmatizing language.

INSTEAD OF

TRY THIS

“respondent parent” or “mother”

use party’s preferred name and pronouns

“juvenile”

use party’s preferred name and pronouns

“substance abuse”

“substance use disorder”

“infant born addicted”

“infant born substance exposed”

“clean/dirty UA”

“positive/negative UA”

technical jargon

use simple explanations and check for understanding

acronyms

use the full name and explain what it is

“Why?” or “What’s wrong with you?”

“What happened to you?” or “What do you think?”

V. **SAFETY:** We will create a secure environment by explaining what is happening and why. We will avoid intimidating formal practices. We will allow virtual appearances or bifurcated hearings for victims to enhance their sense of safety.

VI. **TRANSPARENCY:** We will explain the purpose of each hearing and who is in the courtroom to remove uncertainty and build trust. We will provide written information whenever possible.

Benefits of Prompt Permanency

Achieving permanency in a timely manner is in the best interest of children and benefits all involved parties. The benefits achieved through quick and effective permanency include:

- I. Better and more permanent outcomes for children and families;
- II. Earlier placement of children in permanent homes;
- III. Reduced foster care costs;
- IV. More productive use of professionals' limited time by better coordinating and consolidating case staffings, meetings, and conferences;
- V. More efficient use of judicial resources and professionals' time by reducing the number of court appearances and making every hearing a meaningful event; and
- VI. More efficient docket management and case tracking.

Keys to Prompt Permanency

In order to facilitate quick and efficient permanency, certain key actions should be undertaken by the parties and the court, including but not limited to the following:

- I. Front-loading D&N cases through:**
 - A. Early identification of, notification to, and involvement of respondent parent and interested family members in the D&N process;
 - B. Early assessment; and
 - C. Early development of appropriate treatment plans and respondent parent engagement in this process.
- II. Making every hearing a meaningful event** with defined objectives and/or specific actions to be taken, including ensuring that the necessary professionals have regular contact with the child.
- III. Affording the parties opportunities throughout the case to collaborate** and to resolve issues consensually in a non-adversarial, problem-solving environment, through:
 - A. Focusing on permanency from the beginning and throughout every stage of the case;
 - B. Avoiding continuances whenever possible; and

C. Accountability of all participants involved in the D&N process.

IV. Increased access to community resources.

- V. Identifying high risk cases early** on and proceeding with concurrent permanency planning or early termination as appropriate.

Continuances

Children and youth have a right to timely court proceedings and determinations. C.R.S. § 19-7-101. At all stages of a case, continuances will be granted only if good cause is shown and only when the best interests of the child are served by granting the continuance. The court's calendar and the unavailability of counsel is not good cause for a continuance. If the case involves one or more children who are under six at the time a Petition is filed, the court shall make the findings set forth in C.R.S. § 19-3-104. Any hearing that must be continued shall be rescheduled at the earliest possible time.

Participation by Children/Youth in the Court Process

Foster children and youth have a right to attend and participate in all hearings related to their case, including access to appropriate transportation to the court proceedings and the opportunity to be heard separately when deemed necessary. Children/youth have the right to request certain people be present for the proceedings and the right to be consulted regarding their permanency.

Section 19-3-702(1)(a), C.R.S. requires that the court consult with the child in a developmentally appropriate manner regarding their permanency goal.

- I. **Children/youth must be notified of all court hearings.** GALs and CFYs will notify children/youth of all scheduled court proceedings and inform them of their right to be heard at all court hearings and the various means by which they may participate in court hearings, including direct court attendance (either in person or by phone), letter, fax or email to the court, or by attending an in camera interview with a magistrate or district court judge.
- II. **The presumption is that children/youth will attend all court hearings.** This presumption may be rebutted by the caseworker or the GAL/CFY for reasons such as the age of the child, mental state of the child, developmental disability of the child, school attendance, or preference on the child's part to participate in another way. The Department's court report

should indicate if it is known to the Department at the time the court report is filed with the court, whether the child wishes to participate in the court hearing. If there is a disagreement on the issue of whether a child should attend a hearing, the judicial officer shall make the determination as to whether the child should attend all or portions of the hearing. A juvenile court shall not limit or deny the right unless the court finds by clear and convincing evidence that there are extraordinary circumstances and the limitation or denial is necessary for the safety of the child.

- III. **The GAL/CFY and caseworker will arrange transportation** for the child to the court hearing. Foster parents and CASA's should be considered as transportation options.
- IV. **Children under twelve should make every effort to attend the permanency planning hearing.** If the child does not participate in a permanency planning hearing, the court will inquire as to whether the child was consulted as to their position. An oral report, provided by the GAL, addressing the child's position will be sufficient.
- V. **Youth who are twelve years of age or older are expected to attend the permanency planning hearing.** The CFY, caseworker, and CASA will work together to ensure the youth's attendance.
- VI. **The court must consult with the child in a developmentally appropriate manner** at each permanency planning hearing, pursuant to the Colorado Children's Code.
- VII. **Every effort will be made to make this an empowering and pleasant experience for the child,** in order to address the concerns about the child's fear and anxiety.
- VIII. **The court will assure the child that the decision about permanency is not their decision,** but the court's decision.
- IX. **The court may conduct in camera interviews with a child,** upon motion, to determine their best interests. The court will provide the parties an opportunity to propose any specific questions they wish the court to ask of the child. The court will advise the child that the meeting will be recorded and that other parties may obtain a transcript. A transcript of the interview must be made available to the parties in advance of a termination hearing if timely requested and the court anticipates relying on the information from the interview in ruling on the termination motion. The format of the interview will be determined on a case by case basis.

Distribution of Psychotherapy and Substance Use Treatment Records

Psychotherapy and substance use treatment records are protected by the psychotherapist-patient privilege established in section 13-90-107(1)(g), C.R.S. Respondent parents are presumed to hold their own psychotherapist-patient privilege. The court will designate a holder of the child's privilege as early as practicable. No privileged information should be shared with any party to the case prior to the court's designating a privilege holder.

At any time, a treating therapist may report non-privileged information to the Department or the child's legal custodian, orally or in writing, including dates of service, treatment goals, progress, and treatment recommendations. Any other notes, reports, or other records generated in the course of therapy should be sent to the holder of the privilege. If a child holds his or her own privilege, independent legal counsel shall be appointed to advise the child regarding his or her exercise of the privilege and waiver of the privilege. In that case, any therapeutic records should be sent to the child's counsel. If the child's psychotherapy or substance abuse treatment records are requested by any party, the GAL or child's counsel will review the records, redact any privileged information, and provide the redacted records along with a privilege log, to the child's legal custodian for distribution to the parties who are approved to receive the records pursuant to a valid release of information or court order. If a child is 15 years or older, any release of information pertaining to substance abuse or mental health treatment records must be signed by the child in order to be effective.

An evaluation completed by a third party provider who did not previously have a privileged therapeutic relationship with the respondent parent or child is not privileged information. The Department will request that the evaluation report be sent to the privilege holder. If the evaluation report includes privileged communications with a therapeutic provider or other privileged information, then the privilege holder will redact the report and provide it to the Department, along with a redaction log. The privilege holder should provide a redacted copy to the Department within SEVEN days of receipt of the report.

Open Court

Pursuant to C.R.S. § 19-1-106(2), the general public cannot be excluded from D&N hearings unless the court determines that it is in the best interests of the child or the community to exclude the public. In such an event, the court shall admit only persons who have an interest in the case or the work of the court.

Court Report Filing

The Department and CASA (if a CASA is appointed to the case) shall file a report with the court prior to all court hearings, except for Temporary Custody Hearings. A report for adjudicatory hearings is required if the hearing date is more than 30 days since the Petition was filed. Court reports are not required for adjudicatory trials or hearings addressing pretrial matters. The Department must file the Court Report by 5 p.m. SEVEN days prior to the hearing and email a copy of the Court Report to the CASA. The CASA must email a copy of their Court Report to all parties and the court clerk by 5 p.m. SEVEN days prior to the hearing. The court clerk will upload the CASA report to the case file. For 30-day review hearings, the Department must file its status report at least ONE day prior to the hearing. If the GAL/CFY desires to file a report with the court, they shall follow the same timeframes as stated above.

Statutes Control

From time to time, the legislature amends the Colorado Children's Code. This District Plan sets forth timeframes, some of which are unique to the District and others of which are statutory. To the extent that timeframes are changed by statute to be more stringent, such timeframes apply and supersede those set forth in this District Plan.

Family Time

Section 19-3-208(2)(b)(IV), C.R.S., of the Children's Code requires the Department to make available and provide family time services for parents with children or youth in out-of-home placement. Section 19-3-217, C.R.S., sets forth the requirements for family time when a child has been removed from their home, including substantive and procedural limitations on the juvenile court's ability to restrict or suspend family time. The court will address family time at the temporary custody hearing and revisit it at every 90-day review hearing or upon the motion of any party. The parent's and the child's preferences must be considered when determining supervision, location, and the timing of family time. The court can only deny family time if necessary to protect either the safety or the mental, emotional, or physical health of the child.

I. FREQUENCY OF FAMILY TIME

After out-of-home placement is ordered, the initial contact between a respondent parent and a child must occur within seventy-two (72) hours of the temporary custody hearing, excluding Saturdays, Sundays, and any court holiday; such contacts may occur by telephone, virtually, or in-person. C.R.S. § 19-3-217(1). The court may authorize an extension of this timeframe for the

initial contact if the court finds that a delay is in the child's best interest or if the extension of time is agreed on by the respondent parent, Department, and GAL/CFY.

The expectations for family time for a child in out-of-home placement are set forth below and based on the 9th Judicial District's Family Time committee's recommendations. The minimum amount of family time per week may be impacted by the resources available to the family and the Department.

Age	< 1 year	1-3 years	3-7 years	7-15 years	>15 years
Family Time*	1 hour, 3-4 per week	2-3 hours, 2-3 per week	2-3 hours, 2-3 per week	1-3 hours 1-2 per week	1 per week

- *The frequency of and level of supervision for family time shall be reassessed on a consistent, standard basis as determined by the Department.*
- *Natural parenting contacts could increase the frequency of family time. Respondent parents should be encouraged to attend events that are a part of parenting but not on the weekly schedule, e.g., medical appointments, school meetings, performances. Agreements must be made prior to attending.*
- *Phone/Zoom/Facetime-calls should be structured to include children of all ages, e.g., reading a book to a small child and reading the same book during in-person family time.*

II. SUPERVISION OF FAMILY TIME

The court will order family time in the least restrictive setting and supervision at the least restrictive level to satisfy the child's safety or mental, emotional, or physical health. The court and Department may rely on informal resources such as community members, relatives, or kin to provide transportation and supervision for family time if those resources are available and appropriate and do not compromise the safety or the mental, emotional, or physical health of the child. If the court orders supervised family time, there is a presumption that the supervised family time will be supervised by informal family supports identified by the family and occur in the community, a homelike environment, or other agreed-on location.

III. SUPERVISION LEVEL FOR FAMILY TIME

The Department is required to develop a family time plan specific to the needs of each family and, therefore, the structure of family time will look different from case-to-case or even throughout the duration of a single case. *See* C.R.S. § 19-3-208(2)(b)(IV). The level of supervision for family time exists on a spectrum.

A. Unsupervised Family Time: Unsupervised family time is family time that does not require a supervisor, involve Department personnel, or include another professional during it.

B. Monitored Family Time: Monitored family time is considered a “step down” and less restrictive than supervised family time. Monitored family time may be described as a “check in” with Department personnel or another supervisor at the beginning, in the middle, or at the end of the family time.

C. Supervised Family Time: When a child is placed out of home and the court determines that supervised family time is necessary, it is presumed that it will be supervised by relatives, kin, or other family supports identified by the family who volunteer to supervise family time. Informal family supports include relatives or other persons identified by the family. It is also presumed that the supervised family time will occur in the community, a homelike environment, or other agreed-on location. The presumption for informal supervision of a respondent parent’s family time may be rebutted if the court finds (1) the child’s safety or mental, emotional, or physical health requires professional supervision or (2) family supports are unavailable or unwilling to provide supervision after the Department has exercised due diligence to contact and engage the relatives, kin, or other family supports. C.R.S. § 19-3-217(1.5)(c)(II). This presumption does not preclude supplemental professionally coached or supervised family time to improve parenting skills.

D. Therapeutic Family Time: Therapeutic family time engages the use of mental health professionals to promote attachment and develop parenting skills. This service may be beneficial when a parent’s own childhood may not have provided many examples of positive, nurturing relationships or when the issues that have resulted in the D&N proceeding require therapeutic support for the child during contact with respondent parents.

IV. DEPARTMENT’S OBLIGATIONS

In making decisions regarding family time upon removal, the Department must encourage the maximum parent, child, and sibling contact possible, including regular family time and participation by the respondent parents in the care of the child, when it is in the best interests of the child. The Department must also encourage parental participation in the child’s life, such as school, extracurricular activities, and medical appointments, when in the best interests of the child. The Department may rely on informal resources such as community members, relatives, or kin to provide transportation and supervision for family time if those resources are available and appropriate and do not compromise the safety or the mental, emotional, or physical health of the child.

When determining supervision, location, and the timing of family time, the Department must consider both the respondent parent’s and the child’s preferences. In all cases in which a child is placed out of home, the Department must create an appropriate family time plan documented in the child’s or youth’s case record. The Department must provide the court with the proposed family time plan on the record at the first hearing that occurs after the emergency hearing or no later than thirty (30) days after the removal of the child. The family time plan must specify: (1) the frequency

and length; (2) people who may be present; (3) whether the family time must be supervised, including who will provide the supervision; and (4) additional opportunities for the child to communicate with a parent, sibling, or other relative. Departments must review and modify the plan on an ongoing basis for the duration of the case to ensure it is aligned with the family's needs. Documentation of changes in the family time plan must be documented in both TRAILS and every court report.

The court may waive the requirement to provide or extend the time for providing the family time plan for good cause or by agreement of the parties; however, the Department's lack of staff or financial resources does not constitute good cause. Any family services plan submitted prior to a dispositional hearing or permanency hearing must include an update on participation in and provision of family time services and identify barriers to expanding family time.

V. MODIFYING FAMILY TIME

The court may only restrict or deny family time if it is necessary to protect either the safety or the mental, emotional, or physical health of the child. The court or Department cannot limit family time as a sanction for a respondent parent's failure to comply with court orders or services if the safety or the mental, emotional, or physical health of the child is not at risk as a result of the family time. The court, Department, parent, or other support may not limit family time or contact between a child and the child's parent or sibling as a sanction for the behavior of the child or as an incentive to change the behavior of the child.

The court may grant discretionary authority to the Department and GAL/CFY to increase (but not decrease) opportunities for additional parent-child/sibling contact without additional court orders.

When a respondent parent has been granted court-ordered family time pursuant to section 19-3-217, C.R.S., the parent is entitled to a hearing before there can be any (1) ongoing reduction in, (2) suspension of, or (3) increase in the level of supervision, including a change from in-person family time to virtual family time. However, family time may still be reduced or suspended, or have its level of supervision increased pursuant to an emergency order. If the court issues an order suspending, reducing, or restricting family time, the parent is entitled to a hearing within seventy-two (72) hours after the order is issued, excluding Saturdays, Sundays, and court holidays. A hearing is not required if the petitioner, GAL or CFY, and parent agree to the reduction, suspension, or increase in the level of supervision. Any such agreement must be reduced to writing and filed with the court. Additionally, the Department may cancel scheduled family time if the child's safety or mental, emotional, or physical health would be endangered or if the parent consents to the cancellation of the family time. Family time should not be curtailed or restricted based on a blanket policy, such as a Department rule prohibiting family time for respondent parents who have warrants.

VI. FAMILY TIME FOR INCARCERATED PARENTS

The court and Department are required to provide family time to parents who are incarcerated during some or all of a D&N case. Practical barriers, such as the facility's rules or policies, may make the exercise of family time more difficult in such cases. Regardless, the Department is required to make reasonable efforts to involve an incarcerated parent in treatment planning or to document the efforts made to include the parent who is incarcerated in the planning. Reasonable efforts in such situations include efforts to involve the incarcerated parent in providing opportunities for meaningful family time. If in-person family time is not reasonably practicable, the Department must communicate with the facility regarding the facility's ability to facilitate family time through video technology and arrange for available virtual family time.

The Department is not required to produce a child for court-ordered family time if the family time is impossible due to the policies of the facility where the parent is incarcerated or in treatment. If in-person family time with a parent who is incarcerated is a possibility, the court must consider the preferences of the child and parent in its determinations about such family time. A court is not required to order family time if a protection order prohibits contact between the child and the parent. In addition, the court can deny family time if it finds that it would jeopardize the child's mental, emotional, or physical health.

The court cannot deny family time between the child and a parent who is incarcerated based solely on the fact that in-person family time would occur in a facility or jail. The court also cannot delegate the decision about whether such family time should occur to the caseworker, the CASA, the GAL/CFY, and/or the child's therapist. When a parent who has an open D&N is sentenced to the Department of Corrections ("DOC"), the DOC must consider placing the person in a facility that facilitates family time, unless the court has determined that family time does not serve the child's best interests or in those instances when a protection order prohibits contact between the child and parent. In addition, the DOC must ensure the child and a parent who is incarcerated have access to opportunities that facilitate a continued relationship between them regardless of whether they are respondents in a D&N proceeding.

VII. SIBLING FAMILY TIME

If it is in the best interest of each sibling, the Department must promote frequent contact between siblings (in-person visits, phone calls, texts, etc.). Sibling contact should not be limited to the time or duration of contact with respondent parents, nor should restrictions of sibling family time be a consequence of a behavior problem, unless the family time is contrary to the best interests of one of the siblings. Because the juvenile court does not have jurisdiction over siblings who have not been adjudicated dependent and neglect, family time between a non-adjudicated sibling and the adjudicated sibling can only occur with the consent of the parent(s) of the non-adjudicated sibling.

VIII. GRANDPARENT FAMILY TIME

Grandparents and great-grandparents may seek reasonable family time orders when a child custody case or allocation of parental responsibilities (“APR”) case related to that child exists. *See* C.R.S. § 14-10-124.4(3). Such cases include those involving APR to a nonparent and D&N proceedings. In assessing a request for grandparent family time over a respondent parent’s objection, the court must apply the Troxel presumption, which provides that a fit parent is presumed to be acting in the child’s best interests. *See Troxel v. Granville*, 530 U.S. at, 68–69; *N.G.G.*, 459 P.3d 664, 668–69 (Colo. App. 2019). In such circumstances, grandparents carry the burden of showing, by clear and convincing evidence, that the parent’s decision should not be afforded the Troxel presumption and that the family time requested is in the best interests of the child. A grandparent’s statutory standing to seek family time terminates when the rights of the parent have been terminated. However, a grandparent can be a party to an open adoption agreement. Even if grandparents do not seek to have their own family time with the child in a D&N case, grandparents may be asked to act as a support person for the child, the parent, or the current caregiver, to support a healthy transition for a child to family time or to a placement with a relative. Grandparents may also be requested to supervise a parent’s family time with the child when informal supervision is authorized pursuant to section 19-3-217, C.R.S.

VIX. FAMILY TIME WITH OTHER RELATIVES AND KIN

Other relatives and kin, who are not grandparents or great-grandparents, do not have a statutory right to family time with the child. However, nothing prevents the court from ordering family time with a relative or kin if it finds such family time to be in the child’s best interests and consistent with the Troxel presumption. Additionally, children and youth in foster care have a right to ongoing connections with the community and supports they deem important, unless otherwise limited by law or court order. As part of the family search and engagement process, the Department must exercise due diligence to contact and engage with relatives and kin who respond to the notice. Like grandparents, these relatives and kin may be asked to act as a support person for the child, the respondent parent, or the child’s current caregiver. They might also be asked to supervise a parent’s family time with the child.

Court Processes/Hearings

Temporary Custody Order

- I. Purpose: To provide an ex parte process for the court to determine whether the child should be removed from their home and/or to enter protective orders designed to protect the child from possible abuse or neglect, pending a hearing at which all parties are provided notice and an opportunity to be heard. C.R.S. § 19-3-405.

II. Participants:

A. Required:

1. Judicial Officer
2. County Department Representative

B. May be necessary or appropriate

1. Court Clerk
2. GAL/CFY
3. County Attorney/Assistant County Attorney
4. Respondent Parent

III. Timing: Pursuant to section 19-3-405(1), C.R.S., the court shall, at all times, make a judicial officer available by telephone to issue temporary protective custody or protection orders when necessary to protect a child from abuse or neglect.

- A. In cases that are initiated by removal of a child, the Temporary Custody Hearing/Advisement Hearing must be held within SEVENTY-TWO (72) hours of removal of the child (exclusive of weekends and holidays), unless an earlier hearing is mandated by statute.
- B. The court clerk will make best efforts to appoint a GAL or CFY at the time of initial out-of-home placement and prior to the Temporary Custody Hearing. The clerk will enter an appointment order. The clerk and/or county attorney will notify the GAL or CFY of the Temporary Custody Hearing.
- C. The court clerk will make best efforts to appoint respondent parent counsel at the time the Temporary Custody Hearing order is entered and prior to the Temporary Custody Hearing. The clerk will enter an appointment order. The clerk and/or county attorney will notify RPC of the Temporary Custody Hearing.
- D. If a GAL, CFY, and/or RPC has not been appointed prior to the Temporary Custody Hearing, the court will appoint one at the hearing.

IV. Critical Tasks:

- A. The court shall make findings regarding placement, including reasonable efforts to prevent or eliminate the need for out-of-home placement of the child, or a finding that no reasonable efforts are necessary due to the emergency nature of the situation.
- B. The court shall enter protective orders as may be appropriate pursuant to the provisions of sections 19-3-405(2)(b) and 19-1-114, C.R.S.
- C. The court shall order that the respondent parent be notified of the time set for the upcoming Temporary Custody Hearing/Advisement Hearing.
- D. The GAL or CFY shall be appointed by the court for the child. In cases involving two or more children with potentially conflicting interests, the court shall appoint a separate GAL or CFY for each child.
- E. The court shall enter and distribute written findings at the time order is issued.
 1. The court will make findings in accordance with section 19-3-405(2)(a), C.R.S., concerning the need for placement of the child; section 19-1-103(114),

C.R.S., defining the Department's reasonable efforts; and section 19-1-115(6), C.R.S., regarding out-of-home placement of the child and legal custody.

2. The court shall make a preliminary ICWA inquiry.
3. The court will inquire as to whether the child is developmentally disabled or has a mental illness in accordance with section 19-3-403(4)(a), C.R.S.
4. The court will provide written notice of the next hearing date and time to all parties in the Temporary Custody Order. The Department will provide notice of the hearing to foster parents, pre-adoptive parents, or relatives who were not present when the hearing was set in open court, in accordance with section 19-3-502(7), C.R.S.

- V. Writ of Habus Corpus: If a respondent parent is incarcerated and unrepresented, the court will issue a writ to ensure the respondent parent's appearance at the next hearing. If a respondent parent is represented, their attorney must file a motion for a writ.

Filing of Petition when Child Remains Home

- I. Purpose: After investigation and a determination by the Department that a child falls within the definition of a dependent and neglected child, pursuant to section 19-3-102(1), C.R.S., and the family will not participate in services voluntarily, a Petition may be filed, setting forth the allegations which bring the child within the jurisdiction of the court. C.R.S. § 19-3-502.
- II. Participants:
- A. Required
 1. Judicial Officer
 2. Department Representative
 3. County Attorney/Assistant County Attorney
 4. Court Clerk
- III. Process: The County Attorney's Office shall file a Petition with the Court, containing appropriate exhibits and other required information pursuant to section 19-3-502, C.R.S.
- IV. Critical Tasks:
- A. The court appoints a GAL/CFY for the child.
 - B. The court tentatively appoints RPC for respondent parents.
 - C. The court sets a hearing on the next available docket day for advisement.
 - D. The County Attorney's Office serves a copy of the Petition and a summons for respondent parents' appearance in accordance with section 19-3-503, C.R.S.

Temporary Custody Hearing/Advisement Hearing

- I. Purpose: In cases where the child has been removed from their home, the purpose of the Temporary Custody Hearing ("TCH") is to determine whether continued out-of-home placement is appropriate and if the reasons that necessitated out-of-home placement continue to exist. In cases where a Petition has been filed, but the child remains in the home, the purpose of the Advisement Hearing is to make sure the respondent parent understands the D&N process and their rights.
- II. Participants:
 - A. Required
 1. Judicial Officer
 2. Court Clerk
 3. Respondent Parent(s)
 4. County Attorney/Assistant County Attorney
 5. Department Representative
 - B. May be necessary or appropriate
 1. Respondent Parent Counsel
 2. Relatives of Child/Youth
 3. Special Respondents/Intervenor
 4. Tribal Representatives
 5. CASA Representative/Volunteer
 6. Child/Youth
- III. Timing:
 - A. The court will notify parties of the TCH/Advisement hearing in the Temporary Custody Order or Notice of Hearing. The Department will ensure that respondent parents, the GAL/CFY, RPC, placement providers, and the child are informed of the hearing date and time.
 - B. The standard time for the Garfield County District Court to call the D&N docket is 9:00 AM on the first and third Wednesday of the month at the Garfield County Courthouse in Glenwood Springs. These times are subject to modification by the court.
 - C. In Rio Blanco County, D&N cases are typically scheduled on the second and fourth Tuesday afternoons, depending on the District Court Judge, at the Rio Blanco County Courthouse in Meeker.
 - D. In Pitkin County, D&N cases are scheduled on an as-needed basis at the Pitkin County Courthouse in Aspen. Respondent parents are to appear at the time on the written notice.
 - E. In cases that are initiated by removal of a child, the TCH/Advisement Hearing must be held within SEVENTY-TWO (72) hours of removal (exclusive of weekends and holidays), unless an earlier hearing is mandated by statute.
 - F. In cases initiated by the filing of a Petition, the TCH/Advisement Hearing should be held as soon as possible, ideally no later than the next D&N docket day.

- G. The TCH/Advisement Hearing will be conducted as a formal court proceeding to the extent that the Department has an opportunity to present its case, and each party, including respondent parent, has a right to present evidence, cross-examine witnesses, and contest the change in custody/removal from the home.

IV. Critical Tasks:

- A. The court shall appoint a GAL or CFY to represent the interests of the child, if a GAL or CFY has not been previously appointed.
- B. The court may appoint a CASA if deemed appropriate.
- C. The court will appoint RPC to represent the respondent parent, if RPC has not been previously appointed.
- D. If a respondent parent is present, the court shall advise the respondent parent of their rights pursuant to sections 19-3-403(3.6)(a)(I)(A) and -202, C.R.S., and Rule 4.15 of the Colorado Rules of Juvenile Procedure ("C.R.J.P.").
- E. The court will advise respondent parents of their rights pursuant to the Petition (if the Petition has been filed) so that the respondent parent understand their rights and potential outcomes of the D&N court process, permanency options, and the possibility that the Petition could result in the termination of parental rights. Ideally, the court will explain the dual purposes of child protection and family preservation and impress upon the respondent parent the importance of the timely resolution of the case for the benefit of the child.
- F. The presumption is that all parties appear in person for this hearing; however, virtual appearances may be permitted if necessary. Best practice is for RPC to appear with their client in person thirty (30) minutes prior to the scheduled start time to view the video advisement, review the parent resource packet, and discuss the case.
- G. The Department may provide a written report or other information regarding the child, although a formal report is not required.
- H. The court shall provide respondent parent with a parent resource packet containing the D&N handbook, an ICWA Assessment Form and instructions (JDF 566 & 567), a Declaration of Non-Indian Heritage (JDF 1351), an Application for Court Appointed Counsel (JDF 208), a Relative Resource Form Affidavit (JDF 559), and an Affidavit Regarding Children Pursuant to section 14-13-209, C.R.S. (JDF 404), and shall advise:
 - 1. Relative Resource Form Affidavit (JDF 559) must be fully completed and filed with the court within seven (7) days after receipt. The court will strongly encourage respondent parents to return the forms on time, especially in EPP cases.
 - 2. Application for Court Appointed Counsel (JDF 208) shall be fully completed and filed with the court within seven (7) days after receipt. A respondent parent is entitled to one appointment of a Court Appointed Counsel, to be paid for by the State, if the respondent parent qualifies. C.R.S. § 19-3-202. After a motion for termination is filed, the court shall advise the respondent parents of their right to be represented by counsel if they are not already represented, and counsel shall be appointed if the respondent parent is eligible (refer to Termination Hearing section of this document). If the respondent parent later requests that the Court Appointed

Counsel withdraw, the respondent parent may not be entitled to Court Appointed Counsel at a later time. The respondent parent may hire private counsel or proceed self-represented, without counsel.

3. The ICWA Assessment form and/or the Declaration of Non-Indian Heritage must be fully completed and returned to the Department within seven (7) days. If the Department has reasons to believe a child is an Indian child, they shall complete and file one ICWA Assessment form for each child as part of their due diligence process.
4. The court will ask each participant whether they know or have reason to know whether the child is an Indian child and determine the applicability of the ICWA. The court will order the Department to send inquiry letters to the Bureau of Indian Affairs and/or particular tribes if a respondent parent discloses any Indian ancestry.
5. The court shall inquire as to the whereabouts of noncustodial or non-appearing respondent parents and what efforts have been made to locate and notify them. The Department must commence a diligent search for noncustodial parents within three (3) working days of placement.
6. The court will inquire as to whether the child suffers from a developmental disability or mental illness pursuant to section 19-3-506, C.R.S.
7. The court shall inquire as to whether any domestic relations orders exist in Colorado or in any other state in accordance with the Uniform Child Custody Jurisdiction Enforcement Act ("UCCJEA") and make a determination as to whether jurisdictional issues exist. The court must require the respondent parents, or others as ordered by the court, to complete and file an Affidavit Regarding Children (JDF 404) to assist the court in making a jurisdictional determination under the Uniform Child Custody Jurisdiction and Enforcement Act, sections 14-13-101 to -403, C.R.S.
- I. The court shall enter findings regarding placement, including reasonable efforts to prevent the need for removal of the child from the home or a finding that reasonable efforts are not necessary because of the emergency nature of the case pursuant to 19-1-115(6.5), C.R.S.
- J. The court may enter protective orders as needed, including orders regarding monitored sobriety, medical evaluations, release of familial information, provision of services, child-centered family time issues including family time with respondent parents, siblings, and other persons of importance to the child.
- K. The court will enter a pre-adjudication protective order protecting statements made in screenings or treatment from being used or referenced in an adjudicatory hearing.
- L. The court will enter orders regarding temporary custody.
- M. The court will enter orders for family time pursuant to section 19-3-217, C.R.S.
- N. The court shall order that a Petition be filed within fourteen (14) days from the date the child was removed from the home pursuant to C.R.J.P. 4.5 and section 19-1-501, C.R.S.
- O. The court shall provide written notice of the next hearing date and time to any party, foster parents or other custodial adult who was not present when the hearing was set in

open court in accordance with section 19-3-502(7), C.R.S. Notice may be provided through the Department's court report. The GAL/CFY will provide notice to the child.

- P. The adjudicatory hearing must occur within sixty (60) days of service of the Petition in an EPP case and ninety (90) days of services of the Petition in a non-EPP case. In order to ensure these time frames are met, the court will attempt to schedule the initial adjudicatory hearing within fourteen (14) days of the TCH/Advisement hearing in an EPP case and thirty (30) days of the TCH/Advisement Hearing in a non-EPP case.

Admissions and Denials (Adjudicatory) Hearing

- I. Purpose: At the Adjudicatory Hearing, respondent parents will be asked to admit, deny, or admit to a stipulated modification of the allegations set forth in the Petition. If a parent admits the allegations of the Petition, the case will proceed to a dispositional hearing. If a parent denies the allegations of the Petition, a trial will be set. C.R.S. § 19-3-505.
- II. Participants:
- A. Required
 1. Judicial Officer
 2. Court Clerk
 3. Respondent Parent
 4. County Attorney/Assistant County Attorney
 5. Department Representative
 6. GAL/CFY
 - B. May be necessary or appropriate
 1. Respondent Parent Counsel
 2. Relatives of Child/Youth
 3. Special Respondents/Intervenor
 4. Tribal Representatives
 5. CASA Representative/Volunteer
 6. Child/Youth
- III. Timing: The Adjudicatory Hearing shall be held at the earliest possible time, ideally within FOURTEEN (14) days of the TCH/Advisement Hearing in an EPP case and THIRTY (30) days of the TCH/Advisement Hearing in an non-EPP case. If a parent does not enter an admission at the Adjudicatory Hearing, the court will enter a denial on behalf of the parent and set the matter for a trial in front of a district court judge. The court will only grant a continuance if the parent has not been served with the Petition. In no instance shall the Adjudicatory Trial be held later NINETY (90) days after service of the Petition in a non-EPP case or SIXTY (60) days after service of the Petition in an EPP case unless the court determines that good cause is shown and that a continuance is in the best interests of the child. C.R.S. § 19-3-505(3), 19-3-104. Calendaring issues and the unavailability of counsel

does not constitute good cause for a continuance. Counsel is expected to find coverage by another attorney or alter their schedule to accommodate the statutory timeframes. If the court determines that a delay is necessary, it must set forth the specific reasons necessitating the delay and schedule the Adjudicatory Trial at the earliest possible time following the delay. In EPP cases, the court must schedule the matter within thirty (30) days of granting the delay. C.R.S. § 19-3-104.

IV. Critical Tasks:

- A. Accept admissions or denials of the Petition, following an advisement.
- B. If removal has occurred or an out-of-home placement is continued, the court will make appropriate findings regarding placement and whether reasonable efforts to prevent or eliminate the need for placement have been made and enter an order for family time.
- C. If respondent parent admits to any allegation in the Petition or admits to a stipulated, modified Petition, the court will adjudicate the child dependent and neglected pursuant to section 19-3-102, C.R.S., and make a finding that there is a factual basis to sustain the Petition as to said admission.
- D. If the court sustains the Petition, a dispositional hearing should be conducted immediately following the admission, but no later than THIRTY (30) days from the date of the adjudication for an EPP case and no later than FORTY-FIVE (45) days for a non-EPP case.
- E. If respondent parent denies all allegations in the Petition, or wishes to stipulate to allegations or facts not stated in the Petition to which the County Attorney and Department are not willing to stipulate, the respondent parent may request that the matter remain before the magistrate or ask that it be transferred to the district court for an adjudicatory trial. The Adjudicatory Hearing or trial shall be scheduled at the earliest possible time, but in no instance shall such hearing be held later than NINETY (90) days after service of the Petition in non-EPP cases or later than SIXTY (60) days after service of the Petition in EPP cases.
- F. If a respondent parent requests an Adjudicatory Hearing or trial, the following actions will occur (see next section for more detail):
 1. A trial date will be set.
 2. A case management order shall be entered, pursuant to C.R.J.P. and the Colorado Rules of Civil Procedure, that includes the following:
 - a) Deadlines for discovery and for endorsement of witnesses, expert witnesses and exhibits;
 - b) A date for pretrial conference at which a plea will be taken if the parties have reached agreement; and
 - c) Deadlines for disclosures, discovery, jury instructions, expert witness reports/disclosures.
 3. The court shall make ongoing inquiries regarding any unresolved ICWA, paternity, or UCCJEA issues.

4. It is possible that respondent parents may proceed on different timeframes depending on when an adjudication is sustained. Parties and the court must be mindful of the various statutory timeframes as applied to each respondent parent.
- G. The court may proceed by any of the following alternatives to adjudication:
1. Informal Adjustment
 - a) Pursuant to section 19-3-501, C.R.S., the court may make an informal adjustment without a Petition if: the child, respondent parent or other guardian is informed of their rights, including representation by counsel during every stage of the proceeding; the facts are admitted; and written consent is obtained from the respondent parent or guardian and from the child if the child is of sufficient age and understanding. Efforts to effect informal adjustment may extend no longer than SIX (6) months.
 - b) Types of Cases: Informal Adjustments are available in uncontested cases in which the parties agree on the treatment issues and the respondent parent demonstrate a commitment to addressing such issues by cooperating with the Department by voluntarily participating in recommended services designed to keep the child in the home or to return the child within SIX (6) months and participating in regular family time with the child, if removed from the home. In informal adjustments, the respondent parent must admit at the TCH, the factual allegations underlying Department intervention as required by statute, but such admissions shall not be used if a Petition is filed. The court shall review these cases every NINETY (90) days.
 2. Continued Petitions.
 - a) Pursuant to section 19-3-505(5), C.R.S., the court may, after making a finding that the allegations of the Petition are sustained by a preponderance of the evidence, but before ordering adjudication, continue the hearing from time to time, allowing the child to remain in their own home or in the temporary custody of another person or agency subject to conditions of conduct (stated in a treatment plan) and family time if (1) consent is given by the parties, including the child and respondent parent; and (2) the parties have been fully informed by the court of their rights in the proceedings, including the right to have an adjudication either sustaining or dismissing the Petition.
 - b) A continued adjudication will be documented through a stipulation and treatment plan approved by the court.
 - c) A continued adjudication shall extend for no longer than SIX (6) months without review by the court. Upon review by the court, the court may continue the case for an additional SIX (6) months, after which the Petition shall be sustained or dismissed.

- d) Types of Cases: A continued adjudication shall not be considered in cases involving severe sexual abuse or physical abuse of a child. A continued adjudication may be appropriate in uncontested cases where the respondent parent agrees as to the treatment issues and demonstrates a commitment to addressing the issues that brought the matter before the court by cooperating with Department and voluntarily participating in recommended services designed to keep the child in the home or to return the child within SIX (6) months, and participating in regular family time with the child, if removed from the home.
- e) Review Guidelines: An Appearance Review should be conducted at least every NINETY (90) days but can occur at any time upon the request of a party.
- f) A party or the court may motion the court at any time during the continued adjudication to sustain or dismiss the Petition.

Adjudicatory Trial

- I. **Purpose:** The purpose of an adjudicatory trial is to determine whether the allegations in the Petition are sustained by a preponderance of the evidence. If the Petition is sustained, the child will be adjudicated dependent and neglected. If the Petition is not sustained, the Petition will be dismissed and the child will be returned home. The trial can be to the magistrate, a district court judge, or to a jury. C.R.S. 19-3-202 and -505.
- II. **Participants:**
 - A. Required
 - 1. Judicial Officer
 - 2. Court Clerk
 - 3. Respondent Parent
 - 4. GAL/CFY
 - 5. County Attorney/Assistant County Attorney
 - 6. Department Representatives
 - B. Maybe necessary or appropriate
 - 1. Respondent Parent Counsel
 - 2. Relatives of the Child
 - 3. Court Interpreter
 - 4. Tribal Representative
 - 5. Special Respondents/Intervenor
 - 6. CASA Representative/Volunteer
 - 7. Child/Youth
 - 8. Witnesses
 - 9. Six-person Jury

- III. Timing: The Adjudicatory Trial will be held as soon as practicable, but no longer than SIXTY (60) days from the date of service of the Petition in an EPP case and NINETY (90) days from the date of service of the Petition in a non-EPP case, unless the court finds good cause and that the best interests of the child will be served by granting a delay, as allowed by section 19-3-505(3), C.R.S.
- IV. Discovery: Colorado Rule of Juvenile Procedure 4.6 (Rule 4.6), governs discovery procedures in D&N matters. Upon written request, the petitioner must disclose certain enumerated items related to the case in its possession or control within twenty-one (21) days of request. C.R.J.P. Rule 4.6(f)(1). All parties must disclose witness lists, exhibit lists, and expert disclosures no later than seven (7) days before contested hearings, including termination hearings. C.R.J.P. 4.6(g). Parties may seek oral and written depositions, requests for admissions, interrogatories, and requests for production of documents throughout a D&N case. C.R.J.P. Rule 4.6(i). Oral and written depositions must be completed at least twenty-one (21) days before a contested termination hearing, unless a different timeframe was agreed on by the parties or so ordered by the court; requests for admissions, interrogatories, and requests for production must be completed at least thirty-five (35) days before a contested termination hearing. C.R.J.P. Rule 4.6(i)(3). The court may, at its discretion, impose sanctions and other remedial measures for disclosure and discovery violations. C.R.J.P. Rule 4.6(k).
- V. Critical Tasks:
- A. If the allegations in the Petition are not sustained at trial, the case will be dismissed.
 - B. If a respondent parent admits that their child is dependent or neglected through "no fault" of their own, pursuant to section 19-3-102(e), C.R.S., and the Petition is not sustained as to the other respondent parent, then the case will be dismissed as to the respondent parent that entered a "no fault" admission.
 - C. If the allegations are sustained at trial, the following actions will occur:
 - 1. A decree adjudicating the child dependent and neglected will enter; and
 - 2. The court will proceed to the Dispositional Hearing immediately following the Adjudicatory Hearing or set a Dispositional Hearing within THIRTY (30) days of the Adjudicatory Hearing for EPP cases and within FORTY-FIVE (45) days of the Adjudicatory Hearing for non-EPP cases.

Dispositional Hearing

- I. **Purpose:** To determine legal custody of the child; decide whether an appropriate treatment plan can be devised to address the issues that led to the Department's involvement; and adopt an appropriate treatment plan. C.R.S. §§ 19-3-507 and 508.
- II. **Participants:**
 - A. Required
 1. Judicial Officer
 2. Court Clerk
 3. Respondent Parent
 4. GAL/CFY
 5. County Attorney/Assistant County Attorney
 6. Department Representative
 - B. Maybe necessary or appropriate
 1. Respondent Parent Counsel
 2. Foster Parent
 3. Relatives of the Child
 4. Court Interpreter
 5. Tribal Representative
 6. Special Respondent/Intervenor
 7. Treatment providers (notified of hearing as appropriate/deemed necessary)
 8. CASA Representative/Volunteer
 9. Child/Youth
- III. **Timing:** The Dispositional Hearing should be held on the same day as the Adjudicatory Hearing if possible. A decree of disposition must enter within THIRTY (30) days of the date of adjudication as to each parent in EPP cases and within FORTY-FIVE (45) of the date of adjudication as to each parent in non-EPP cases
- IV. **Notice:** Petitioner will provide notice of the dispositional hearing to all parties, respondent parent counsel, the GAL/CFY, CASA, and tribes that have intervened. The Department will provide notice to foster parents, pre-adoptive parents, and relatives with whom the child is placed. The GAL/CFY will provide notice to the child.
- V. **Preparation:** The Department must provide the court and parties with a Family Services Plan, including a treatment plan, a social history, and a statement outlining the services offered to the family to prevent out-of-home placement and facilitate reunification. The Department will create the treatment plan in collaboration with respondent parent and respondent parent counsel within sixty (60) days of the referral and send the proposed treatment plan to all parties for review. Prior to the adjudicatory hearing, the Department will facilitate a team decision making meeting to review the treatment plan. The Department will disseminate a

proposed treatment plan prior to the team decision making meeting, and attorneys will provide feedback on the proposed treatment plan at or before the team decision making meeting. Children fourteen (14) years of age or older are entitled to select up to two (2) members of their case planning team in addition to the caseworker or a foster parent to help develop their treatment plan. The treatment plan for children fourteen (14) years of age or older must include an objective for transition-to-adulthood services. The treatment plan shall be written in clear, concise and understandable language that is tailored specifically to each party subject to the treatment plan. In EPP cases, the report must include a list of services available to families that are specific to the needs of the child and the child's family and are available in the community where the child resides. If the child is residing with a relative or kin, the report must document efforts made by the county to maintain that placement. If a parent is incarcerated, the report must detail the services and treatment available to the parent at the facility or the caseworker's attempts to get that information. If a parent has a disability, any identified accommodations and modifications must be listed in the report. The proposed treatment plan must include a family time plan that addresses the frequency, type of contact, the person(s) attending the family time, and efforts that have been made to identify natural supports that can provide additional safe family time. If the child is part of a sibling group not placed with their siblings, the caseworker shall submit to the court a statement about whether separate placement continues to be in the best interests of each of the children in the sibling group.

VI. Critical Tasks:

- A. Determine legal custody.
- B. Determine if an appropriate treatment plan can be developed. If the court determines that no appropriate treatment plan is possible, a motion to terminate parental rights must be filed or a Permanency Planning Hearing must be held within THIRTY (30) days.
- C. Parents, grandparents, or relatives with information or knowledge concerning the care and protection of the child may intervene as a matter of right. Nonrelative kin who have cared for the child for more than three (3) months may intervene as a matter of right. Foster parents who have the child in their care for twelve (12) months or more may intervene as a matter of right.
- D. The court will review the treatment plan with the parties as follows:
 - 1. Inquire as to whether the respondent parent and child over fourteen (14) participated in developing the treatment plan;
 - 2. Review the terms of the treatment plan with the respondent parent and child and inquire as to their willingness and ability to engage with the plan;
 - 3. Advise the respondent parent of benefits to the child and respondent parent of meaningful progress with treatment; and
 - 4. Advise the respondent parent as to the potential consequences of not engaging with the treatment plan, including termination of parental rights and contempt.
- E. If respondent parent agrees to the proposed treatment plan, the court will:
 - 1. Adopt the treatment plan, including any modifications deemed necessary;

2. Order the treatment plan as an order of the court; and
 3. Set a Permanency Planning Hearing.
- F. If a respondent parent contests the treatment plan, the court will:
1. Hear the disputed issues and make judicial findings and orders adopting or amending the proposed treatment plan; or
 2. Set the matter for a contested hearing within the statutory timeframes; or
 3. If the Department files a motion alleging that no appropriate treatment plan can be devised, the court will set the matter for a contested hearing within THIRTY (30) days in EPP cases and FORTY-FIVE (45) days in non-EPP cases.
- G. If any modifications to the treatment plan are made at the hearing, the Department will file a revised treatment plan within seven (7) days of the hearing. The Judge or Magistrate will enter a dispositional order as soon as possible thereafter and attach a copy of the treatment plan to the dispositional order.
- H. Set a Permanency Planning Hearing. An initial Permanency Planning Hearing must occur as soon as possible and no later than NINETY (90) days of the Dispositional Hearing in cases in which out-of-home placement has occurred. The County Attorney's Office shall provide notice of the Permanency Planning Hearing pursuant to C.R.S. § 19-3-702(2).

Permanency Planning Hearing

- I. Purpose: To plan for the future of a child and to provide a stable and permanent home in the shortest time possible. The court will adopt a definitive permanency plan for the child which addresses where the child will be living permanently and directs that significant steps be taken to implement the plan. Accordingly, the parties should be prepared to take whatever steps are necessary to finalize the permanency planning goal by the goal date established by the court, pursuant to section 19-3-702, C.R.S.
- II. Participants:
- A. Required:
 1. Judicial Officer
 2. Court Clerk
 3. Respondent Parent
 4. Child 12 and over
 5. GAL/CFY
 6. County Attorney/Assistant County Attorney
 7. Department Representative
 - B. May be necessary or appropriate:
 1. Respondent Parent Counsel
 2. Relatives of the Child
 3. Court Interpreter

4. Tribal Representatives
5. Treatment Providers
6. Foster or Kinship Care Provider
7. Child 11 and younger
8. CASA Representative/Volunteer
9. Special Respondent/Intervenor

- III. Timing: The Permanency Planning Hearing must be held within TWELVE (12) months of the date the child entered foster care or within THREE (3) months of the Dispositional Hearing (or the first hearing in Foster Youth in Transition cases), whichever is earlier. Subsequent Permanency Planning Hearings shall occur no less frequently than every SIX (6) months. If the court finds that no reasonable efforts for reunification are required, a Permanency Planning Hearing must be held within THIRTY (30) days of that finding. If the court rules at a Dispositional Hearing that an appropriate treatment plan cannot be devised, a Permanency Planning Hearing must be held within THIRTY (30) days of the Dispositional Hearing.

- IV. Notice: The Petitioner will provide written notice of the Permanency Planning Hearing to all parties, the parents or guardians, placement providers, the CASA, and named children or youth. The GAL/CFY must provide developmentally appropriate notice to the child about the Permanency Planning Hearing. If the proceeding involves an Indian child and an out-of-home placement is sought at a Permanency Planning Hearing, notice must be provided to the tribe(s) and Indian custodians.

- V. Preparation: The Department will facilitate a team decision making meeting prior to the Permanency Planning Hearing to discuss the child's permanency plan. At the team decision making, the parties will discuss whether the child will attend the permanency hearing and make arrangements for the child's participation. The Department must submit a permanency plan for each child no later than SEVEN (7) days before the Permanency Planning Hearing. The Department must include in the report the following:
 - A. The basis for the recommended permanency plan.
 - B. If applicable, the compelling reasons why it is not in the best interests of the child to return home, be placed for adoption, be placed with a legal guardian, or be placed with a fit and willing relative (including an adult sibling). C.R.S. § 19-3-702(4)(b)(I).
 - C. The Department's intensive, ongoing, and unsuccessful efforts to achieve these goals, among them efforts that use search technology, including social media, to find biological family members for the child. C.R.S. § 19-3-702(4)(b)(I).
 - D. Whether the child's placement is following the reasonable and prudent parenting standard, and whether the child has regular ongoing opportunities to engage in age-appropriate activities. C.R.S. § 19-3-702(4)(b)(II).
 - E. In cases designated as EPP:
 1. Efforts that have been made to identify a permanent home for the child.

2. Services that have been provided to the child to facilitate the identification of a permanent home, including the Department's ongoing efforts to identify relatives and kin and to engage the relatives and kin in providing support for the child and family.
3. Documentation that the relatives and kin have been provided notice.
4. The bases for any placement decision regarding placement of the child with kin, including the reasons why any relatives or kin have been ruled out for placement.

VI. Critical Tasks:

- A. All permanency planning hearings will be conducted in person. The court will provide proper notice to all parties and allow all parties to be heard pursuant to section 19-3-702(1)(a), C.R.S.
- B. Required Consultation with Child. Pursuant to section 19-3-702(3.7), C.R.S., the court must consult with the child in an age appropriate manner to determine their wishes regarding their permanency plan. For children twelve (12) years of age or older, this "age appropriate" consultation should be accomplished by the child's attendance in court. For children eleven (11) years of age or younger, this "age appropriate" consultation may be accomplished by the child's attendance in court; by in chambers conference with the court; by face-to-face consultation or observation by the GAL, Department representative, CASA Volunteer, or any combination of said appropriate parties.

VII. Permanency Planning Goals:

- A. The court shall enter a permanency planning goal with a goal deadline. The court shall order the agency to make reasonable efforts to finalize the permanency goal by the goal deadline. Concurrent planning may be part of permanency planning goals in order for the court to identify a primary and alternative permanency planning goal. Section 19-3-508(7), C.R.S., specifically authorizes efforts to place the child for adoption or with a legal guardian or custodian to be made concurrently with reasonable efforts to preserve and reunify the family.

VIII. Findings:

- A. Whether the child should be returned to a parent, guardian, or legal custodian. If so, the court must find the date on which the child must be returned.
- B. If the child cannot be returned home, the court must determine whether the Department has made reasonable efforts to find a safe and stable permanent home for the child.
- C. If the child cannot return to the physical custody of a parent or legal guardian, the court must enter one or more of the following permanency goals:
 1. return home;
 2. adoption by a relative or kin;
 3. permanent placement with a relative or kin through legal guardianship or APR;

4. adoption by a nonrelative;
 5. permanent placement with a nonrelative through legal guardianship or APR;
 6. OPPLA, either through emancipation or long-term foster care.
- D. Whether procedural safeguards to preserve parental rights have been applied in connection with any change in the child's placement or any determination affecting family time.
 - E. Whether the Department has made reasonable efforts to finalize any permanency plan in effect at the time of the Permanency Planning Hearing or has made reasonable efforts to reunify the child and their family.
 - F. Whether the Department has made ongoing efforts to identify relatives and kin who are available to be a permanent placement for the child.
 - G. If a child resides in a placement out of state, whether the out-of-state placement continues to be appropriate and in the best interests of the child.
 - H. Whether a child fourteen (14) years of age or older is receiving transition services to successful adulthood, regardless of the youth's permanent goals. C.R.S. § 19-3-702(3.5).
 - I. Whether the child's current placement could, if necessary, become a permanent placement. In determining whether a child is in a permanent placement, the court must consider placement of the children or youth together as a sibling group pursuant to sections 19-3-213, 19-3-702(5)(f), C.R.S.
 - J. If there is reason to know that the child is an Indian child pursuant to ICWA, whether active efforts have been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family and that, if the child is in out-of-home placement, these efforts have proved unsuccessful.
 - K. If the court finds that there is not a substantial probability that the child will be returned to a parent or legal guardian within six (6) months and the child appears to be adoptable and meets the criteria for adoption in section 19-5-203, C.R.S., the court may order the Department to show cause why it should not file a motion to terminate the parent-child legal relationship.
 - L. In EPP cases:
 1. At the permanency hearing that occurs immediately prior to twelve (12) months after the original placement and every six (6) months thereafter as needed, whether the child is in a placement that can provide legal permanency.
 2. If the child is not in a permanent home, whether reasonable efforts were made to find the child an appropriate permanent home and such home is currently not available or that the child's situation prohibits the child from a successful placement in a permanent home.
 3. Whether the Department has continued to make reasonable efforts to return the child home, unless the court has determined that reunification is not an option pursuant to section 19-1-115(7), C.R.S.

IX. Allocation of Parental Responsibilities ("APR"):

A. A petition for APR ("APR Petition") may be filed with the juvenile court as part of a D&N proceeding pursuant to section 19-1-104(6), C.R.S. If uncontested, the APR Petition may be heard at such time it is requested. If contested, the matter should be set for hearing as soon as practicable. If the court adopts an APR, and there is no existing domestic relations case, the clerk will open a DR case and certify a copy of the APR into the DR case. If a DR case exists in the 9th Judicial District, the clerk will file the APR order in that case. If the child resides outside of the 9th Judicial District and there is no DR case, the parent or person with majority custody of the child will file a certified copy of the order with the clerk of court in the county where the child permanently resides to open a domestic relations case. The Department will file a motion to close the D&N case and terminate the juvenile court's jurisdiction once it receives confirmation that the APR has been filed in a DR case.

X. Set Hearing: The court will set a 30-day Review Hearing, if appropriate; a Placement Review Hearing within ninety (90) days; and a Permanency Planning Hearing within six (6) months.

30-Day Review Hearings

I. Purpose: The purpose of the Dependency & Neglect System Reform program ("DANSR") was to create better outcomes for families through a collaborative process involving the court and all the other team members. The focus of DANSR was to address substance use issues in a meaningful way in order to break the cycle of addiction, ensure the protection of children, and to reunify the family. Since the inception of DANSR, the tenets have been incorporated into all D&N cases resulting in discontinuation of the use of the DANSR terminology.

II. Participants:

A. Required:

1. Judicial Officer
2. Court Clerk
3. Respondent Parents
4. GAL/CFY
5. County Attorney/Assistant County Attorney
6. Department Representative

B. May be necessary or appropriate:

1. Respondent Parent Counsel
2. Relatives of the Child
3. Court Interpreter
4. Tribal Representatives
5. Special Respondents/Intervenors
6. Treatment Providers

7. Foster or Kinship Care Provider
8. CASA Representative/Volunteer
9. Child/Youth

- III. Process and timing: In Garfield County, 30-Day Review Hearings shall be heard on the third Wednesday of every month in 15-minute increments from 9am to noon or more frequently as determined by the team. The first review hearing shall be set on the next available docket following the dispositional hearing.
- IV. Critical Tasks:
- A. Some or all of the following actions will be taken at every review hearing:
 1. Review progress on treatment plan goals and objectives;
 2. Review family time and interaction between respondent parent and child, as well as between siblings;
 3. Set a 30-Day Review Hearing, Placement Review Hearing, or Permanency Planning Hearing within thirty (30) days.
 - B. The Department shall provide written notice of all review hearings to all parties, foster parents, and/or other custodial adults who were not present when the review was set in open court. C.R.S. § 19-3-502(7).

Placement Review Hearings

- I. Purpose: To review the need for continued out-of-home placement (if child has been removed) and make findings about whether reasonable efforts have been made to reunify the family and prevent placement; to review progress on and the need for modification of the treatment plan; to review progress of the child and their well being in placement and assess the need for services to the child; to update and review family time issues and protection orders; and to make findings on whether the Department has made reasonable efforts to finalize the permanency goals.
- II. Participants:
- A. Required:
 1. Judicial Officer
 2. Court Clerk
 3. Respondent Parents
 4. GAL/CFY
 5. County Attorney/Assistant County Attorney
 6. Department representative
 - B. May be necessary or appropriate:
 1. Respondent Parent Counsel
 2. Relatives of the Child
 3. Court Interpreter

4. Tribal Representatives
5. Special Respondents/Intervenors
6. Treatment Providers (notified of hearing as appropriate/deemed necessary)
7. Any out-of-home care provider (noticed and present as appropriate)
8. CASA Representative/Volunteer
9. Child/Youth

- III. Process and timing: Following the Dispositional Hearing and within three (3) months of the initial temporary custody order and ninety-one (91) days of initial placement, the court will hold review hearings as necessary or at the request of parties, generally every NINETY (90) days as long as there are not critical or emergency issues that merit more frequent reviews. Under no circumstances shall a case be reviewed less frequently than every SIX (6) months. In certain circumstances, the case may proceed directly to permanency planning or termination. This hearing can frequently be combined with other scheduled hearings.
- IV. Critical Tasks: Some or all of the following actions will be taken at every Placement Review Hearing:
 - A. If removal has occurred or out-of-home placement is continued, the court will make appropriate findings regarding placement and reasonable efforts to eliminate the need for placement or that reasonable efforts are not required;
 - B. If removal has occurred or out-of-home placement is continued, the court will find whether the Department has made reasonable efforts to find a safe and permanent placement;
 - C. Determine whether the treatment plans require modification in light of additional information or changed circumstances;
 - D. Review progress on treatment plan goals and objectives;
 - E. Review family time and interaction between respondent parent and child, as well as between siblings;
 - F. Review whether the child has regular ongoing opportunities to engage in developmentally appropriate activities;
 - G. If the child has been in placement for FIFTEEN (15) of the last TWENTY-TWO (22) months, the court will consider ordering the Department to show cause as to why a motion for termination of parental rights has not been filed;
 - H. In EPP cases, if the disposition is other than termination of parental rights or reunification, the court will consider, on a case-by-case basis, ordering a show cause hearing as to why the Department has not filed a motion for termination of parental rights;
 - I. Set the next review date, or Permanency Planning Hearing, if applicable; and/or
 - J. Notice of all review hearings is to be provided by the Department to foster parents, or other custodial adults who were not present when the review was set in open court.
- V. Qualified Residential Treatment Program: If a child is placed in a QRTP or if placement in a QRTP is contemplated, special procedures and findings apply to the placement.

- A. A Qualified Individual must assess whether a QRTP level of treatment is necessary. The assessment must identify whether the QRTP level of treatment is the most effective, appropriate, and least restrictive placement for the child and identify short and long term goals for the child and family. C.R.S. § 19-1-115(4)(h).
- B. The court must hold a hearing to determine whether the needs of the child can be met with a parent, legal guardian, relative or kinship provider, or foster care home; whether placement of the child in a QRTP is the most effective and appropriate level of care for the child in the least restrictive environment; and whether placement is consistent with the short and long term goals for that child as outlined in the permanency or family services plan.
- C. The court must hold the hearing within sixty (60) days after a placement or within thirty (30) days after a placement if the evaluation by the Qualified Individual does not support the QRTP level of care of the child, GAL/CFY, or any party objects to the placement.
- D. As long as a child remains in a QRTP, the court must review the placement at every permanency hearing and placement review hearing and no less than every ninety (90) days.
- E. Prior to the hearing, the Department must submit evidence that ongoing assessment continues to support the initial findings required for the placement, documenting the specific treatment or service needs that will be met for the child in the placement; the length of time the child is expected to need the treatment or services; and the efforts made to return the child home or to a less restrictive placement. C.R.S. § 19-1-115(4)(f).

Foster Youth in Transition Hearings

- I. Purpose: The Foster Youth in Transition (“FYIT”) Program was established to provide extended child welfare services to eligible youth eighteen (18) years of age or older and less than twenty-one (21) years of age.
- II. Participants:
 - A. Required:
 - 1. Judicial Officer
 - 2. Court Clerk
 - 3. CFY
 - 4. Assistant County Attorney
 - 5. Department Representative
 - 6. Child
 - B. May be necessary or appropriate:
 - 1. Relatives of the Child
 - 2. Court Interpreter
 - 3. Tribal Representatives

4. CASA Representative/Volunteer
5. Special Respondents/Interveners
6. Foster or Kinship care provider

III. Process and Timing:

- A. If there is a pending D&N case, a transition hearing needs to be held within THIRTY FIVE (35) days of the youth's 18th birthday, and within NINETY (90) days in a re-entry case. C.R.S. § 19-3-705.
- B. Subsequent review hearings must be held within every SIX (6) months C.R.S. § 19-7-213(12).
- C. For youth approaching age eighteen (18), review hearings should address the possibility for the youth to enter the FYIT program and ensure that the CFY or the Department has or will advise the youth about the FYIT program.
- D. If a youth wishes to enter the FYIT program, the court will schedule a transition hearing for the youth to transition from a D&N to a FYIT case.
- E. The youth may request a continuance to prepare for emancipation and may seek up to 119 days but may not go beyond the last day of the month the youth turns twenty-one (21). C.R.S. § 19-7-310(5).
- F. At least seven (7) days before the transition hearing, the department must file a report with the court that meets several requirements. C.R.S. § 19-3-705(2). First, the report must include a description of the Department's reasonable efforts toward achieving the youth's permanency goals and a successful transition to adulthood. C.R.S. § 19-3-705(2)(a). Second, the report must include an affirmation that the Department has provided the youth with records and documents required by statute. C.R.S. § 19-3-705(2)(b). Third, the report must include an affirmation that the Department has informed the youth in a developmentally appropriate manner of the benefits and options available to the youth through the FYIT program and the voluntary nature of FYIT. C.R.S. § 19-3-705(2)(c). Fourth, the report must include a statement of whether the youth has made the preliminary decision whether to emancipate or to enter a FYIT case. C.R.S. § 19-3-705(2)(d). If the youth has chosen to emancipate, the report should include a copy of the youth's Emancipation Transition Plan, finalized no more than ninety (90) days prior to the youth's transition. C.R.S. § 19-3-705(2)(d)(I).
- G. After the youth has entered into a Voluntary Services Agreement ("VSA") with the Department, then the Department shall file a petition with the Court to open an FYIT case and file a motion to dismiss the D&N case if the youth is the only child of that case and there are no other younger children in the case. Please note the Department must file the FYIT petition before the D & N case closes.
- H. When a youth with an open D&N case chooses to enter the FYIT program, the FYIT petition must be filed with a current copy of the youth's Roadmap to Success ("RTS"). C.R.S. § 19-7-307(6). A RTS is an individualized document that describes, based on the youth's own goals, the services needed to help the youth transition to successful adulthood and the barriers confronting the youth and the support activities

needed to address those barriers. C.R.S. § 19-7-302(10). The youth's status affects where the petition must be filed. A youth with an open Title 19 case can elect for the FYIT petition to be filed in the youth's county of residence or in a county serving the youth. C.R.S. § 19-7-307(1.5). When a youth does not have an open Title 19 case, the petition must be filed in the county where the youth resides. C.R.S. § 19-7-307(1.5).

IV. Initial Hearing:

- A. An Initial Hearing must be held within fifty-six (56) days after the FYIT petition is filed.
- B. The court must appoint a CFY for the youth.
- C. The court must advise the youth pursuant to sections 19-7-309.5(2) (a)–(c), C.R.S., and make the findings and determinations outlined in sections 19-7-309.5(3)(a)–(c), (5), C.R.S. If the court determines that the requirements of section 19-7-309.5(3), C.R.S., have been met, the court will hold periodic reviews. C.R.S. § 19-7-309.5(4).
- D. At the initial hearing or any time thereafter, the court must enter a finding that the youth is dependent on the court as defined in section 19-1-103(54), C.R.S., if the youth has been adjudicated dependent and neglected pursuant to section 19-3-102, C.R.S., or if sufficient evidence exists that the youth has been subjected to child abuse or neglect as defined in section 19-1-103(1), C.R.S.; and may enter special findings establishing the youth's eligibility for Special Immigrant Juvenile Status pursuant to federal law.
- E. The court must find that the youth is at least eighteen (18) years of age or older but less than twenty-one (21) years of age.
- F. The court must find that the youth has a current D&N case or has current or recent prior foster care or kinship care involvement in at least one of the following ways:
 - 1. The youth was in foster care under section 19-1-102, C.R.S., on or after youth's sixteenth birthday
 - 2. The youth was in noncertified kinship care, as defined in section 19-1-103, C.R.S., on or after the youth's sixteenth birthday and was adjudicated dependent and neglected pursuant to article 3 of this title 19; or
 - 3. The youth turned eighteen (18) years of age when the youth was a named child in a D&N case.
- G. The court must find that the youth is engaged in or intends to engage in at least one of the following:
 - 1. Completing secondary education or an educational program leading to an equivalent credential;
 - 2. Attending an institution that provides postsecondary or career and technical education;
 - 3. Working part- or full-time for at least eighty hours per month; or
 - 4. Participating in a program or activity designed to promote employment or remove barriers to employment.

5. If the youth is incapable of engaging in any of the above as a result of a medical condition that is supported by updated documentation and seeks to enter into and is substantially fulfilling youth's obligation to a VSA, then the court shall find that the youth qualifies.

V. Periodic Review Hearings:

- A. The court must review FYIT cases at least every six (6) months to ensure that the FYIT program is providing the youth with the necessary services and support. C.R.S. § 19-7-213(1)(2).
- B. The court must seek the youth's meaningful participation and offer remote options for participation to accommodate the participating youth's work, school, or treatment commitments. C.R.S. § 19-7-312(6).
- C. If the court finds the youth is not substantially fulfilling the youth's obligations pursuant to the VSA, the court can enter orders for the Department to provide additional services to and support for the youth. C.R.S. § 19-7-312(4).
- D. The court may enter orders for the youth to follow to continue to be eligible for the FYIT. C.R.S. § 19-7-312(5). The court must make findings regarding reasonable efforts to implement the youth's case plan/RTS, the continued need for foster care, and whether the placement is the least restrictive setting to meet the youth's needs. C.R.S. § 19-7-312(7)(a)–(b). Because the FYIT is voluntary, contempt against the youth is not available.
- E. The CFY and Department should meet with the youth regularly to ensure the youth is receiving the necessary services and support.

VI. Permanency Planning Hearings:

- A. Permanency Planning Hearings must be held in FYIT cases in the same manner as provided in section 19-3-702, C.R.S., except that such hearings need only occur at least every twelve (12) months. C.R.S. § 19-7-311.
- B. Youth participating in the FYIT are presumed to meet requirements for an OPPLA permanency goal. 12 CCR 2509-4:7.301.24(R)(7).

VII. Re-Entry:

- A. Any eligible youth who does not have an open D&N case, but wants to receive services, may reenter the system as many times as the youth would like. C.R.S. §§ 19-7-304(2), (4), 19-7-307(1), 19-7-310(3)(e). To initiate this process, the youth must contact the county where the youth resides and request to enter the FYIT. C.R.S. § 19-7-304(2).
- B. In response to a request to reenter, the Department must explain the FYIT program to the youth and determine the youth's eligibility within three (3) business days of the request. C.R.S. § 19-7-304(3). Within three (3) business days of an eligible youth's decision to enter the FYIT, the Department must prepare and execute a VSA. Within the same timeframe, the Department must refer the youth to the Office of Child's Representative ("OCR") for the appointment of counsel. C.R.S. § 19-7-306(1)(b).

Within ninety (90) days of entering a VSA with the youth, the county must initiate a FYIT proceeding by filing a petition. C.R.S. § 19-7-304(3).

- C. An eligible youth may file a petition to initiate a FYIT case at any time. C.R.S. § 19-7-307(1).
- D. If the youth is determined to be ineligible, the county must notify the youth and provide reasons for that determination, information on how to appeal the denial, and OCR's contact information. C.R.S. § 19-7-304(3).

VIII. Case Closure and Emancipation:

- A. As long as certain procedures are followed, closure of the FYIT case may occur at any time upon the youth's request or based on the Department's motion to determine whether the youth still meets eligibility requirements. C.R.S. §§ 19-7-307(4)(b), 19-7-313(1)(a)–(c). However, case closure must occur prior to the last day of the month in which the youth turns twenty-one (21) years of age (or the greater age of foster care eligibility required by federal law). C.R.S. § 19-7-313(1)(b).
- B. At least ninety (90) days prior to case closure due to the youth turning the maximum age, the county must provide the participating youth with written notice of the date the VSA will end, the youth's transition plan, and information about community resources that may benefit the youth. C.R.S. § 19-7-313(1)(b), (c).
- C. An emancipation discharge hearing is required prior to case closure. C.R.S. § 19-7-313(2).
- D. The court may continue the emancipation discharge hearing up to 119 days with the youth's consent but not past the last day of the month in which the youth turns twenty-one (21) years of age (or the greater age of foster care eligibility required by federal law). C.R.S. § 19-3-705(3)(e), (5).
- E. The Department must finalize an Emancipation Transition Plan ("ETP") no more than ninety (90) days prior to the emancipation discharge hearing. C.R.S. § 19-7-310(1). The ETP must include specific options concerning housing, health insurance, education, local opportunities for mentors and continuing support services, and workforce support, and employment services. The ETP must also include information concerning the importance of designating another individual to make health care treatment decisions on the participating youth's behalf if the youth becomes unable to participate in such decisions and the participating youth does not have, or does not want, a relative or legal guardian who would otherwise be authorized to make such decisions. The ETP must provide the participating youth with the option to execute a health care power of attorney and include details at the participating youth's discretion. At least seven (7) days prior to the hearing, the Department must file a report with the court that includes a description of its reasonable efforts; an affirmation that the youth has been provided with necessary records, documents, and contacts; and a copy of the youth's ETP. C.R.S. § 19-7-310(4)(a)–(c).
- F. At the emancipation discharge hearing, the court must review the ETP and determine whether the Department has made reasonable efforts toward the youth's permanency

goals and in preparing the youth for a successful transition to adulthood. C.R.S. § 19-3-310(3)(a), (b).

G. The court must determine whether the youth has been provided all required records/documents and whether the youth has been enrolled in Medicaid or advised of Medicaid eligibility. C.R.S. § 19-3-310(3)(c), (d).

H. The court must advise the youth about the right to reenter the FYIT program up to the age of twenty-one (21) or the greater age of foster care eligibility required by federal law. C.R.S. § 19-7-310(3)(e).

Termination of the Parent-Child Legal Relationship

I. Purpose: To obtain judicial findings as to whether there are statutory grounds to terminate the parent-child legal relationship and whether termination is in the best interests of the child. C.R.S. §§ 19-3-601, *et seq.*

II. Participants:

A. Required:

1. Judicial Officer
2. Court Clerk
3. Respondent Parent
4. GAL/CFY
5. County Attorney/Assistant County Attorney
6. Department Representative

B. May be necessary or appropriate

1. Respondent Parent Counsel
2. Child/Youth
3. Relatives of the Child/Youth
4. Court Interpreter
5. Tribal Representatives
6. Special Respondents/Interveners
7. Any out-of-home care provider (noticed and present as appropriate)
8. CASA Representative/Volunteer
9. Witnesses

III. Process and Timing:

- A. A motion to terminate the parent-child legal relationship may be filed at any time following the Dispositional Hearing.
- B. The hearing on the motion shall not be heard sooner than THIRTY days after the motion is filed.
- C. In an EPP case, if the child is under six years of age at the time a Petition is filed, the Court shall hear the motion for termination within 120 days, and shall not grant a

delay unless good cause is shown and the court finds that the best interests of the child will be served by granting a delay.

- D. A grandparent, aunt, uncle, brother, or sister of the child must file a request for placement, guardianship or legal custody within TWENTY days of filing of the motion. C.R.S. § 19-3-605.
- E. Expert reports must be distributed to all parties at least SEVEN days prior to the Termination Hearing, unless otherwise indicated in the case management order (see below) or stipulated by the parties.

IV. Case Management Order: A case management order for the Termination Hearing may be entered at or after the time of setting. The order may address the following issues:

- A. C.R.S. § 19-3-607 requires the appointment of an expert witness for a requesting parent if indigent.
- B. Set deadlines for filing of motions, discovery, exchange of witnesses, exhibit lists and stipulations;
- C. Expert reports must be distributed to all parties at least SEVEN days prior to the Termination Hearing or as ordered in the Case Management Order.
- D. Order that notice be sent to any tribe(s) that has not responded to the initial notice that a child may be an Indian child under ICWA.

V. Critical Tasks:

- A. The Court will determine whether the statutory criteria for terminating the respondent parent-child legal relationship have been met.
- B. If the Court grants the motion to terminate parental rights, a post termination review must be held within NINETY days.
- C. If the Court denies the motion, the Department will be ordered to continue making reasonable efforts to reunite the family.
- D. Findings: C.R.S. § 19-3-604 defines the standard of proof, the factors to consider and the necessary findings to determine whether the termination motion should be granted.
- E. The presiding judicial officer should use the Termination Checklist in order to assure that all necessary findings have been made.
- F. If the child remains in out-of-home placement following the Termination Hearing, the court will determine whether reasonable efforts have been made to place the child in a permanent placement in accordance with the established or amended permanency goal.
- G. If the child has been identified as an Indian child under ICWA or there remains reason to believe that the child may be an Indian child under ICWA, the following matters must be considered:
- H. Whether notice was given to the child's tribe or any tribe that did not respond to the initial notice that a child may be an Indian child under the Act;
- I. If a child is an Indian child, certain findings must be made by a standard of "beyond a reasonable doubt." These findings are as follows:

1. That custody by the parent or Indian custodian "is likely to result in serious emotional or physical damage to the child." 25 U.S.C. § 1912(f); and
 2. That active efforts have been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family and that those efforts have been unsuccessful. 25 U.S.C. § 1912(d).
- J. Other findings required for termination of the parent-child legal relationship pursuant to section 19-3-604, C.R.S., are made by the standard of "clear and convincing evidence."
1. If the motion is granted, the court will take the following actions:
 - a) Consider whether it is appropriate to change the permanency goal or the goal date in light of the court's findings and order;
 - b) Advise the respondent parent of their right to appeal the court's order of termination;
 - c) Amend the Petition to remove the parents as respondents and order that they no longer appear at post-termination review hearings after the deadline for the filing of an appeal or a mandate has been received from an appellate court; and
 - d) Set the matter for post-termination review within NINETY (90) days of the order terminating the parent-child legal relationship for the purpose of reviewing the placement plan and for determining whether reasonable efforts have been made to finalize the permanency goal by the goal date.
 2. If the motion is denied, the following actions may be taken:
 - a) Amend the treatment plan if necessary and either reaffirm or revise the permanency goal; and
 - b) Address any family time issues.
 - c) Set the matter for review via a Permanency Planning Hearing within FORTY-FIVE (45) days in order to closely monitor the agency's or the parents' progress on the treatment plan and the child's health and well-being.

Post-Termination Review Hearing

- I. Purpose: To determine what disposition of the child has occurred, if any and to determine the best disposition for the child. C.R.S. § 19-3-606(1).
- II. Participants:
 - A. Required:
 1. Judicial Officer
 2. Court Clerk
 3. GAL
 4. Assistant County Attorney

5. Department representative
- B. May be necessary or appropriate
 1. Child
 2. Relatives of the Child
 3. Court Interpreter
 4. Tribal Representatives
 5. CASA Representative/Volunteer
 6. Special Respondents/Interveners
 7. Foster or kinship care provider

- III. Timing: The Post-Termination Review Hearing shall occur no later than NINETY (90) days after the initial order terminating parental rights. C.R.S. § 19-3-606(1); C.R.J.P. Rule 4.26. The Post-Termination Review Hearing may be combined with other hearings, such as a Placement Review Hearing or Permanency Planning Hearing, as long as notice or other requirements unique to those hearing types are followed. In the ninety (90) days between the order of termination and the Post-Termination Review Hearing, an adoption petition may be filed and a date for an adoption hearing may be set. See C.R.S. § 19-5-208. The adoption proceeding does not deprive the juvenile court of jurisdiction to make decisions in the D&N proceeding. C.R.S. § 19-1-104(1)(b), (g).
- IV. Notice: After termination of the parent-child relationship, respondent parents are no longer entitled to notice of proceedings. C.R.S. § 19-3-608(3). All other remaining parties and anyone with whom the child is placed are entitled to notice of the hearing. C.R.S. § 19-3-502(7). Upon the written request of a foster parent, pre-adoptive parent, or relative, notice of the hearing must be provided in written form and may be provided through the caseworker at the usual periodic meetings with the person providing care for the child. C.R.S. § 19-3-507(5)(c). The GAL or CFY must give developmentally appropriate notice to the child of any hearings related to the child's case. C.R.S. § 19-3-502(4.5). The CASA volunteer appointed to the case must be notified of the hearing. C.R.S. § 19-1-209(3).
- V. Reports: The Department must submit a report indicating the disposition of the child that has occurred. C.R.S. § 19-3-606(1). The GAL must submit a report with recommendations based on an independent investigation and consultation with the child regarding the disposition that is in the best interest of the child and necessary steps to finalize the child's permanency. The CFY must file a position statement conveying the child's position, objectives for the child's desired disposition, and the necessary steps to finalize permanency. If siblings are separated, the Department and GAL, as well as the CFY, when appropriate, given the client's position, should report on sibling visitation and ongoing efforts to reunify siblings. See C.R.S. §§ 19-5-207.3(1), 19-7-203, 19-7-204(2). These reports are subject to the requirements of section 19-1-309, C.R.S., regarding the confidentiality of adoption records and the court's obligation to act in a manner that preserves the anonymity of the biological parents, the adoptive parents, and the child. C.R.S. §§ 19-3-606(1), 19-1-309. These reports must be filed

with the court at least SEVEN (7) days prior to the hearing unless a greater or lesser time is set by the court. C.R.J.P. Rule 4.26.

- VI. Findings: The court is not required to make any specific findings at the Post-Termination Review Hearing. If the hearing is also serving as Placement Review Hearing or Permanency Planning Hearing, the court must issue the findings required for those hearings.
- VII. Setting: Placement Review Hearings and Permanency Planning Hearings shall be held at least every 180 days until permanency has been achieved and the case is dismissed.
- VIII. Critical Tasks:
 - A. Receive the required report from the GAL/CFY regarding the child's status.
 - B. Consider any timely requests of a relative or kin for guardianship and legal custody of the child.
 - C. Set a Placement Review and Permanency Planning Hearing within 180 days.

Options for Closing a Case

- I. Overview: Not all D&N cases must proceed along the same procedural track or within the same timeframe. The options outlined below are designed to expedite permanency in those cases that can proceed to permanency sooner than TWELVE (12) months and to reduce future delays in achieving permanency by pursuing concurrent permanency planning where appropriate. The court will make a determination as to the appropriate case management track at the Admissions/Denials Hearing, Adjudication Hearing or Dispositional Hearing, based on the preliminary permanency goals and the facts and circumstances of the case. Possible case closing outcomes include:
 - A. Protective Supervision Cases pursuant to C.R.S. § 19-1-103:**
 - 1. Application: Where the child is not removed from the home, but the Department maintains protective supervision.
 - 2. Review Guidelines: In cases where the child is not removed from the home, statutes do not mandate a Permanency Planning Hearing or Placement Review Hearing. Ideally, the court will review these cases every NINETY (90) days at the discretion of the court or as determined by the needs of the particular case, to determine if continued supervision by the Department and the court is warranted.
 - B. Reunification Cases:**
 - 1. Application: Where the child has been temporarily removed from the home by court order and reunification with at least one (1) respondent parent is identified as the preliminary permanency goal, that respondent parent agrees to a treatment plan that is reasonably calculated to achieve reunification as expeditiously as possible.

2. Review Guidelines: Placement Reviews should be conducted every NINETY (90) days, and the Permanency Planning Hearing should take place as soon as possible and no later than NINETY ONE (91) days from the Dispositional Hearing in all cases.
3. When the parent's ability to provide reasonable parental care is demonstrated, the parents' correction or improvement of the conduct or condition requiring state intervention, and the child's welfare and safety is ensured, then the court will terminate jurisdiction and close the case.
4. The pivotal concern in maintaining a child in their own home is the parents' ability to provide reasonable parental care. *Interest of A.W.R.*, 17 P.3d 192, 198 (Colo. App. 2000). Reasonable parental care means, at a minimum, providing nurturing and protection adequate to meet the child's physical, emotional, and mental health needs. *Id.*
5. Absolute compliance with the treatment plan is not required. Success is determined by whether the treatment plan corrected or improved the original conduct or condition. *People in the Interest of C.L.I.*, 710 P.2d 1183, 1185 (Colo. App. 1985). Original conduct or condition includes things listed in the removal order, substantiated concerns at the shelter care hearing, issues identified in the safety assessment tool, and issues found at adjudication. Just because there is substantial compliance with the treatment plan does not mean that case closure is appropriate. There must be a behavior change as measured by the treatment plan's "Measurements of Success." observed by the professional team, and articulated by the parents to the court. *People in Interest of D.M.W.*, 752 P.2d 587 (Colo. App. 1987).
6. When the above circumstances have been met, jurisdiction will be terminated in the following ways:
 - a) The court may enter an APR, allocating parental rights to one parent, or in accordance with a parenting plan.
 - b) Department involvement is vacated and the child is returned to the legal custody of their parents.

C. Concurrent Permanency Planning Cases:

1. Application: Uncontested cases where at least one respondent parent has appeared, expressed a desire to work toward reunification, and agreed to a treatment plan; yet, certain risk factors, as referenced in statute, are present, suggesting that reunification may not be successful.
 - a) Under C.R.S. § 19-3-312(5), concurrent permanency planning is required if the Petition alleges that the child is dependent or neglected under section 19-3-102(2), C.R.S. (habitual pattern of child physical or sexual abuse). In these cases, the Department should explore alternative permanency plans concurrently with reunification. The use of team decision-making meetings to develop an alternative plan with the family is encouraged.
2. Review Guidelines: Reviews should be conducted every NINETY (90) days.

D. Termination Cases:

1. Application: Where no appropriate treatment plan can be developed for either respondent parent due to abandonment under section 19-3-604(1), C.R.S., or parental unfitness, under section 19-3-604(1)(b), C.R.S. A finding that no appropriate treatment plan can be developed should be made at the Adjudicatory Hearing or Dispositional Hearing. Efforts should be made to place the child in a potentially permanent placement as soon as possible.
2. Review Guidelines: Where the court finds that no appropriate treatment plan can be devised, a Permanency Planning Hearing must be heard in THIRTY (30) days, unless a motion for termination is filed within THIRTY (30) days, pursuant to section 19-3-702(1), C.R.S.
3. As previously stated, each D&N case is unique and proceeds differently. In some instances, the family successfully demonstrates a correction or improvement of the conduct or condition requiring state intervention. In other cases, alternative permanent arrangements are made for the placement of children. Below are possible case closing practices or outcomes:

E. Emancipation: The child reaches the age of eighteen (18) and does not wish to participate in an FYIT or is participating in an FYIT case up to twenty-one (21) years of age.

F. Commitment to Division of Youth Corrections: Under most circumstances, the Department cannot retain legal and physical custody if a child is committed to youth corrections. The Petitioner will file a motion to withdraw Petition.

G. Relinquishment of Parental Rights:

1. Parents may voluntarily file a petition for relinquishment pursuant to C.R.S. 19-5-103 along with an affidavit of relinquishment counseling and interrogatories after the filing of a motion to terminate parental rights.

H. Continued Adjudication period ends and the Petition is dismissed.

I. Informal Adjustment period ends and no Petition is filed by the Department to retain court jurisdiction.

J. Guardianships: A relative or any other interested person can file a motion for guardianship of the child.

K. APR —Allocation of Parental Responsibilities to a relative or other third person:

1. A motion for APR is presented to the court pursuant to section 19-1-104(6), C.R.S.
2. If the party who is allocated parental responsibilities is not already a party to the case, the court will designate that person as a Special Respondent.
3. Once the APR is entered in the D&N case, then the APR must be certified into an existing domestic relations ("DR") case (if one exists) or filed in a new DR case in the appropriate county..
4. Each county within the 9th Judicial District will handle the certification of an APR to a DR case in an appropriate manner to effectuate the same result.

5. An appropriate party (e.g., County Attorney, GAL/CFY, Special Respondent, etc.) shall provide proof of certification of the APR into a DR case before the court can terminate jurisdiction of the D&N case.
6. Upon receiving proof of the certification of the APR in the DR case, if appropriate, the court may terminate jurisdiction of the case.

Conclusion

The 9th Judicial District Court expects all parties and professionals in D&N cases to comply with the terms of this District Plan for handling D&N Cases. Not all of the timelines outlined in this Plan are statutorily required. However, they are benchmarks established for the Juvenile Court of this District, are in the best interest of children and families, and are expected to be successfully attained. This Plan's effectiveness will be formally evaluated generally each year or more frequently as needed based upon the goals outlined in the Introduction. Any comments or suggestions should be addressed, in writing, to: Magistrate Jill C.H. McConaughy at jill.mcconaughey@judicial.state.co.us.

SIGNED: May 18, 2026 (date)



Chief Judge Anne K. Norrdin

Appendix