

# CHIPS

## [Rules are under the Minnesota Rules of Juvenile Protection Procedure]

### EPC Hearing:

- Must be held within 72 hours of the time the child was taken into emergency protective care, excluding Saturdays, Sundays and Holidays. Rule 4.03, s. 1(a); Rule 30.01, s. 1; Rule 4.01.  
If the EPC hearing is not held within the time limits, the child must be released. Rule 28.06, s. 2.
- The court may admit any evidence that is relevant to the decision to continue the child in protective care or return the child home, including hearsay and opinion evidence. Rule 30.06.

### Admit/Deny Hearing:

- Removed from home by court order – within 10 days of the EPC hearing. Rule 4.03, s. 1(b); Rule 34.02, s. 1.
- Not removed from home by court order – 5 days to 20 days after the parties are served with the petition. Rule 4.03, s. 1(b); Rule 34.02, s. 2.
- Indian child (foster care placement proceeding) – not sooner than 10 days after the parent/custodian and the tribe or Secretary of the Interior receives notice. The parent/custodian or the tribe may request an additional 20 day continuance. Rule 4.03, s. 1(b); Rule 34.02, s. 2.

### Admission:

- Must be made under oath. Rule 35.03, s. 1.

### Discovery:

- Prosecutor must make disclosures specified in the Rule upon the request of any party. Rule 17.01.
- Any party who is not the petitioner must make disclosures specified in the Rule upon the request of a party or the county attorney. Rule 17.02.
- The county attorney and parties have a continuing duty to disclose. Rule 17.06, s. 1.
- Sanctions for discovery violations. Rule 17.06, s. 4.

### Pretrial Conference:

- May be held anytime after the admit/deny hearing, but no later than 10 days before trial. Rule 4.03, s. 1(c); Rule 36.01.

## Trial:

- Must be commenced within 60 days of the EPC hearing or the admit/deny hearing, whichever is earlier. Rule 4.03, s. 1(d); Rule 39.02.
- Clear and convincing evidence. Rule 39.04, s. 1 [non-Indian child]; Rule 39.04, s. 2(a)[Indian child].

## Decision:

- Court must make a finding and issue an order within 15 days of the conclusion of trial (written arguments, if any are submitted or the time for submission has expired). For good cause, the court can extend this period for an additional 15 days. Rule 39.05, s. 1.

## Pre-Disposition Reports:

- The person who intends to offer the report must file the report with the court and serve the report to all parties at least 48 hours prior to the time set for the hearing. Rule 41.03, s. 3.

## Disposition:

- The disposition order must be issued with 10 days of the date the court finds that the statutory grounds set forth in the petition have been proved. Rule 41.02.

## Withholding Adjudication:

- The court may withhold adjudication for a period not to exceed 90 days from the finding that the statutory grounds set forth in the petition have been proved, when it is in the best interests of the child to do so. Rule 40.02, s. 1.
- At a hearing held within the 90 day period, the court must dismiss the matter or adjudicate the child CHIPS. Rule 40.02, s. 2.

## Review Hearings:

- Legal custody transferred to SCHS – at least every 90 days. Rule 41.06, s. 1, s. 2(a).
- Protective supervision – review in court at least every 6 months from the date of the disposition. Rule 41.06, s. 1, s. 2(b).

## **VOLUNTARY PLACEMENT (DD and ED):**

### Review by Petition:

- If a child with a developmental disability or an emotional disturbance continues in out-of-home placement for 13 months from the date of a voluntary placement, a petition alleging CHIPS, TPR, or for permanent placement away from the parent shall be filed.

The court shall conduct a permanency hearing on the petition no later than 14 months after the date of the voluntary placement. M.S. § 260C.141, s. 2(b)(2).

- If, at the first review of the petition, the court finds compelling reasons that the voluntary arrangement is in the best interests of the child and the responsible social services agency has made reasonable efforts to finalize a plan for the permanent placement of the child, and all parties including the child agree, the court may continue the voluntary arrangement for 12 months. The matter must be returned to the court for further review every 12 months as long as the child remains in placement. M.S. § 260C.141, s. 2(b)(2)(i).

## **PERMANENT PLACEMENT**

### **[Rules are under the Minnesota Rules of Juvenile Protection Procedure]**

#### **Permanent Placement Determination Hearing:**

- Child under 8 - must be held within 6 months after the child is placed out of the home of the parent. Rule 42.01, s. 1(a).
- Child 8 or older – must be held not later than 12 months after the child is placed out of the home of the parent, unless a TPR petition has been filed. Rule 42.01, s. 1(b).
- Court can extend the time for a permanency determination up to 6 additional months if the court determines the parent is making sufficient progress on the case plan and is visiting the child, or if the court determines SCHS has not provided appropriate services to the parent. Rule 42.04, s. 1(d).
- Standard of proof: clear and convincing evidence. Rule 39.04, s. 1 [non-Indian child]; Rule 39.04, s. 2(a)[Indian child].

#### **Decision:**

- Court must make a finding and issue an order within 15 days of the conclusion of trial (written arguments, if any are submitted or the time for submission has expired). For good cause, the court can extend this period for an additional 15 days. Rule 39.05, s. 1.

#### **Calculating Out of Home Placement Time:**

- Include all time periods when the child is placed out of the home during the pendency of the current CHIPS petition. Rule 42.03(a).
- Include lengths of all prior time periods during the previous 5 years when the child was placed out of the home on CHIPS petitions other than the current one. If the child was placed for 12 months or more, the court can continue the out of home placement under the current CHIPS petition up to an additional 6 months before making a permanency determination if it is in the best interests of the child and for compelling reasons. Rule 42.03(b).

## Review when Foster Care for Specified Period of Time or Long Term Foster Care:

- Must be at least every 12 months. Rule 42.05, s. 2(g).

## **TERMINATION OF PARENTAL RIGHTS**

### **[Rules are under the Minnesota Rules of Juvenile Protection Procedure]**

#### Admit/Deny Hearing:

- Must be held not less than 10 days after service of the petition. Rule 4.03,s. 3(a); Rule 34.02, s. 1(b).

#### Pretrial Conference:

- May be held anytime after the admit/deny hearing, but not later than 10 days before the date the trial is set. Rule 4.03, s. 3(b); Rule 36.01.

#### Trial:

- Must be commenced within 90 days of the filing of the petition. Rule 4.03, s. 3(c); Rule 39.02, s. 1(c).
- Standard of proof:
  - Indian child – beyond a reasonable doubt. Rule 39.04, s. 2(b).
  - Non-Indian child – clear and convincing evidence. Rule 39.04, s. 1.

#### Findings/Adjudication:

- Court must issue an order within 15 days of the date the trial is completed (the time for written arguments, if any, has expired). If written argument is to be submitted, it must be submitted within 15 days of the conclusion of testimony. The court may extend this period for an additional 15 days for good cause. The court may extend this period for an additional 15 days if an extension of time is required in the interests of justice and the best interests of the child. Rule 4.03, s. 3(d); Rule 39.05, s. 1.

#### Review of Progress Toward Adoption:

- Must be at least every 90 days from the date the termination order is filed with the court. Rule 4.03, s. 3(e); Rule 43.03, s. 1.